

THE ESTATE OF MADISON JODY JENSEN
VS
DUCHESNE COUNTY, et al.
Civil No. 2:17-cv-01031

DAVID L.
BOREN
June 27, 2018

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David L. Boren
June 27, 2018

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

* * *

THE ESTATE OF MADISON JODY :
JENSEN, by her personal : Deposition of:
representative Jared Jensen, :
 : DAVID L. BOREN
Plaintiff, :

vs. :

DUCHESNE COUNTY, a Utah : Civil No. 2:17-cv-01031
governmental entity; DAVID :
BOREN, an individual; JARED : Judge Dale A. Kimball
HARRISON, an individual; JASON:
CURRY, an individual; JANA :
CLYDE, an individual; LOGAN :
CLARK, an individual; and JOHN:
DOES 1-20, :

: June 27, 2018
Defendants. : 9:02 a.m.

* * *

Held at the
County Administration Building
734 North Center Street
Duchesne, Utah

* * *

Jamie R. Brey
- Registered Professional Reporter -

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Also Present: Jared Jensen
Heather Jensen
Tyler Allred
Steve Loos

* * *

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Duchesne, Utah
June 27, 2018
9:02 a.m.

P R O C E E D I N G S

DAVID L. BOREN,

called as a witness for and on behalf of the plaintiff,
being first duly sworn, was examined and testified as
follows:

E X A M I N A T I O N

BY MR. HANCEY:

Q. Good morning, Sheriff Boren. I'm going to ask
you some questions today, and let me just start off by
getting you to state your name for the record.

A. David Boren.

Q. Thank you. You're currently employed with the
Duchesne County Sheriff's Office. Correct?

A. Yes.

Q. You're the sheriff there?

A. Yes.

Q. How long have you been the sheriff?

A. About three and a half years.

Q. Describe generally for me, sir, your
responsibilities as the sheriff of the department.

1 A. I'm responsible for all of the court security,
2 whether it be juvenile or district court. Responsible for
3 serving civil papers within the county for commitments and
4 civil service. I oversee all of the -- I take them out of
5 the jail and oversee the operations there, prisoners.

6 I oversee the general operations of our office,
7 which would be investigations, patrol unit, animal control.
8 The civil division.

9 (Whereupon, Ms. Heather Jensen left the
10 deposition proceedings.)

11 THE WITNESS: And any other thing that might
12 come my way as far as having to keep the peace or enforce the
13 law, to make all lawful arrests within the county. Basically
14 what the State statute would entail, I'm responsible for
15 those. Search and rescue operations within the county.

16 BY MR. HANCEY:

17 Q. Now, I heard on that laundry list that you just
18 stated that one of your responsibilities as sheriff is
19 supervision over the Duchesne County Jail. Is that right?

20 A. Yes.

21 Q. Would that kind of be considered the
22 corrections arm of what you do?

23 A. Yes.

24 Q. All right. Now, we heard from Jason Curry
25 yesterday who, at the time of Madison's death, was the

1 commander of the jail. Is that right?

2 A. Yes.

3 Q. Okay. Is it true that in 2016 he reported
4 directly to you?

5 A. Yes. He reported directly to me. If I was
6 absent or otherwise detained, then he would report to my
7 chief deputy.

8 Q. All right. Since your -- during the term of
9 you serving as sheriff here in this county, who has had
10 responsibility over the implementation of policies and
11 procedures at the Duchesne County Jail?

12 A. Jason Curry would have had -- been responsible
13 for some implementation. Staff Sergeant Travis Givens and
14 myself.

15 Q. And among the three of you, how would you
16 describe the allocation of that responsibility?

17 A. Who would do what?

18 Q. Yes.

19 A. Is that what -- okay. So we have a system in
20 place at the jail where we develop policy. We have jail
21 standards -- if I can take a minute and maybe explain them,
22 then maybe that will give us a little bit of background to
23 show how policy is implemented.

24 The jail standards were developed for the
25 Sheriffs' Association. There's 600-plus, I think it's around

1 640 or something, policies and procedures or standards, if
2 you will, that we look at. Each year at the beginning of the
3 year, those standards are up -- the process of updating those
4 standards goes into effect.

5 Gary Deland, who works for Sheriffs'
6 Association, develops and looks at those standards. And then
7 according to case law, new case law, or new methods or
8 practices that come out, he -- he hands those standards down
9 to the jail. Not just our jail but a number of jails
10 throughout the state.

11 As those standards are passed down, then we
12 have a system, electronic system, that's put in place. One
13 of our administrative staff, either Jason at that time or
14 Travis, will pull up those standards in that system and look
15 at those new standards that need to be addressed. And based
16 on those new standards, his responsibility would be to write
17 policy to comply with that standard.

18 As that policy is drafted, at some point during
19 that process, when they're completed, then they would be
20 taken to the County attorney's office; they would be reviewed
21 by them and then returned back to me. And I would sign off
22 on those standards, policies, and they would be implemented.

23 **Q. Assuming that that process was followed through**
24 **to its completion and you approved and signed off on a**
25 **policy, then would it be inserted some way into the existing**

1 **policies and procedures manual?**

2 A. It would.

3 **Q. How does that happen logistically?**

4 A. Logistically, there -- like I say, there is an
5 electronic system that is in place. As those policies are
6 developed, they are inserted into there. They have to be
7 completed.

8 Then there is an inspection on those by the
9 Sheriffs' Association inspector who would come and -- well,
10 he'd look at them on-line, basically, to see if they are in
11 compliance with that particular standard. They also come out
12 and do an inspection on the jail and do verifications if
13 those particular policies are in compliance with the standard
14 that's set.

15 If it is, then they would sign off that that
16 standard is in compliance, and it would show up on a graph
17 within that system. If there's any incompletions in the
18 policy that addresses that standard, then it would show up on
19 that graph. And there would be an opportunity for the jail
20 administration to go in there and tweak, if you will, that
21 particular policy so that it is compliant with that standard.

22 Once that's done, then it would go to the
23 County attorney's office, come back to me, and then it would
24 become policy. It's a continual, working document. It's
25 really never completed, because it -- it's ever-changing.

1 It started in January. They like to have those
2 policies and procedures completed by May, have them -- the
3 standards addressed in the policies in place so that, as the
4 inspectors come out, they can look at those. Then if there's
5 any issues with any of those policies and procedures, that
6 particular facility has an opportunity to address those and
7 get them in place before a final grade comes out from the
8 association whether we're in compliance with that, those
9 standards, or not.

10 Q. All right. I appreciate that explanation.
11 Now, as an outsider looking at the policies and procedures of
12 the jail, is the thing that would tell me whether or not
13 something has made it all the way through the process you
14 just described and has become formally a jail policy, the
15 fact that it appears in the policies and procedures manual?

16 (Whereupon, Ms. Heather Jensen returned to the
17 deposition proceedings.)

18 THE WITNESS: Yes.

19 BY MR. HANCEY:

20 Q. Now, in discovery in this case, we asked the
21 County to produce a copy of the policies and procedures
22 manual as it existed in 2016. Do you know whether or not
23 that was produced?

24 A. I believe it was.

25 Q. All right. And that would, then, be, sir,

1 the -- as I understand you, the extent of the jail's policies
2 and procedures as they existed in that year. Is that right?

3 A. Yes.

4 Q. All right.

5 A. I might want to interject something there.

6 Q. Okay. Feel free.

7 A. As far as the "extent," those are the written
8 policies and procedures. Obviously we have SOPs, we have
9 general orders. We have verbal policies and procedures that
10 is given by me or other administrators which is considered
11 policy.

12 Q. Well, and that was going to be my next
13 question. So the policies and procedures manual is going to
14 contain written policies of the jail at any given time.
15 Correct?

16 A. Yes.

17 Q. Now, in addition to that, you mention SOPs.
18 Standard operating procedures?

19 A. Yes.

20 Q. Okay. And are those written?

21 A. Some are written. Some are just directives,
22 verbal directives.

23 Q. Describe for me the process by which something
24 becomes policy through a standard operating procedure.

25 A. So, for instance, our medical staff. There's a

1 document that's in discovery as far as the procedure in
2 handling certain medical issues that arise. That would be
3 considered an SOP. That's written. That's not in our policy
4 manual that I'm -- that I talked about as far as the
5 standard. It would be an SOP or an operating procedure.
6 That one would be a written document.

7 Q. Are you talking about Exhibit 13?

8 A. I believe I am, yes.

9 Q. Just verify for me, if you would.

10 A. Is it this...

11 Q. Binder 1, yeah, it would be that one.

12 A. Yes.

13 Q. Okay. We see that Exhibit 13 is a written
14 document. It looks a lot like a policy, but the difference
15 between this and a policy in the manual is -- simply looks
16 like the fact that this isn't formally included in the
17 manual?

18 A. Right.

19 Q. All right. Now, does the jail house all of its
20 written standard operating procedures in one area?

21 A. Yes. Well, a couple of different areas.

22 Q. Okay. And where would I find those?

23 A. There would be one in our booking area and
24 there would another one back in control. They're also on --
25 those are our hard copies. There would be obviously a

1 electronic copy that could be accessed from any of the
2 computers within the jail.

3 **Q. Now, you mentioned that there are also verbal**
4 **policies?**

5 A. Yes.

6 **Q. Is that right?**

7 A. Right.

8 **Q. Tell me about how those work.**

9 A. For instance, if we change the way we were
10 documenting our time, for instance. Uhm, the County from
11 time to time changes the way they want us to record that.
12 And so as they change -- make changes like that, obviously we
13 would need to pass that down to our staff.

14 So in an office meeting or an e-mail or a
15 written directive, we would pass that on to our staff. A
16 verbal directive or verbal policy might be we're going to do
17 time sheets like this today, and from here on out until
18 further notice, that's the way we're going to do it, and we
19 want you to comply with that. So that would be a verbal
20 policy, just an example of a verbal policy that is handed
21 down to our staff. Even though it's not written, it's
22 considered policy.

23 **Q. Is it fair to say that verbal policies are**
24 **reserved for the kind of things that are relatively minor in**
25 **nature?**

1 A. Some of them. Not all.

2 Q. I mean, for instance, would the jail be
3 satisfied with a verbal policy change of something that's in
4 the policies and procedures?

5 A. I -- you lost me. I'm sorry.

6 Q. Well, okay. So you have a policies and
7 procedures manual at the jail. Right?

8 A. Yes.

9 Q. And I presume that the purpose for that manual
10 is to advise and instruct the jail employees on what the
11 policies are and how they do their jobs. Right?

12 A. Right.

13 Q. Would the jail be satisfied with -- if it wants
14 to change one of the written policies contained in the
15 policies and procedures manual, would it be satisfied with
16 verbally doing that in a staff meeting? Or would that change
17 need to go through the process that you described earlier to
18 me?

19 A. It would go through the process that was
20 described earlier.

21 Q. Okay. So then the verbal policy process, it
22 sounds to me, would be more like handling administrative
23 matters, minor in nature. Would you agree with me?

24 A. Generally speaking, yes.

25 Q. Okay.

1 Are there any other types of policies -- it
2 seems to me like you mentioned some type of an order that
3 would also fit into the category of policy?

4 A. General order.

5 Q. Okay. What is a general order?

6 A. That's a written directive from me. Personal.

7 Q. Is it directed to the jail as a whole or to an
8 individual within the jail?

9 A. It can be either.

10 Q. And under what circumstances would you prepare
11 a general order?

12 A. If something became apparent to me either
13 through the public or through one of our administrative staff
14 or just a line staff, or a civilian, that affected our
15 operation, any deficiency or anything that we might want to
16 improve on or discontinue that I needed to address
17 immediately, then I might do that by a general order.

18 Q. Can you think of a general order that you have
19 created in the last two years?

20 A. Yes.

21 Q. Tell me about one.

22 A. Time sheets, for instance. I did a general
23 order on how we were going to address our time sheets and
24 record our comp time and our overtime. That was a general
25 order that obviously we need to address right now because

1 people like to get paid. And we wanted to do it right, so I
2 addressed that with a general order.

3 Q. I see. Is there ever a circumstance where a
4 general order could contradict or supersede something
5 contained in the written policy and procedures manual?

6 A. Yes.

7 Q. Give me an example of that.

8 A. For instance, a -- our camera use policy, our
9 video camera use policy. If -- as we were reviewing new case
10 law or new practices that came out, if there were issues with
11 a -- with that camera use policy, then I could do a general
12 order, and that general order would supersede or replace that
13 particular portion of the policy. I think it would state in
14 there what it would replace and that this particular order
15 would be now in effect. And then at the end of the year,
16 then that general order would be implemented into policy.

17 Q. So it would be like a stop-gap measure to
18 address the situation until the beginning of the next year
19 when you go through the process once again?

20 A. Right.

21 Q. Okay.

22 (Whereupon, Exhibit No. 51 was marked for
23 identification.)

24 BY MR. HANCEY:

25 Q. Sheriff Boren, I've handed you what's been

1 marked as Exhibit 51. I want you to just look for a minute
2 at the first two pages of that exhibit. Does that appear to
3 you to be the index page or pages of the policies and
4 procedures manual for the jail from 2016?

5 This is the policy and procedures manual that
6 was produced in discovery.

7 A. Okay.

8 Q. This is the index from that. And it's about a
9 996-page document. Does that sound right to you?

10 A. 996?

11 Q. 990, somewhere in there, yes.

12 A. This particular policy that I'm reviewing right
13 here, uhm, is the policy -- part of the policy that would be
14 given to inmates who would be back in the box.

15 Q. Okay. But -- and I pulled this -- I pulled all
16 of the pages of this exhibit, except for the first two, out
17 of the body of the policy and procedures manual.

18 A. Okay.

19 Q. So it's only -- it's part of that, the one I
20 wanted to focus on later on.

21 A. Okay.

22 Q. But the first two pages were to orient you on
23 what this came from.

24 A. Okay.

25 Q. Does it appear to be the policy and procedures

1 manual in place at the jail --

2 A. Yes.

3 Q. -- in 2016?

4 A. Yes.

5 Q. Thank you. Okay. We'll come back to this
6 momentarily. I just wanted to lay that foundation.

7 In November of 2016, what was the jail's
8 practice in providing copies of its policy and procedures
9 manual to jail employees and staff members?

10 A. They would -- as individuals are trained back
11 there, they go through a field training process right after
12 they're hired. They are provided with an access into the
13 computer where the policies and procedures are kept. They
14 review those policies. They have to become acquainted with
15 those policies and show that -- that they understand those
16 policies and procedures.

17 At the end of their field training, then they
18 would sign off that they have reviewed those policies and
19 procedures. And their field training officer would sign off
20 that they were provided with those policies and procedures
21 and that they had a chance to review them and become
22 acquainted with them.

23 Then that field training would be reviewed by
24 the jail commander or the staff sergeant and then signed off
25 on. Generally speaking, there is a hard copy there that they

1 can review now or they can access it by -- through the
2 computer system. Either one or both.

3 Q. So there's a hard copy of the manual kept at
4 the jail?

5 A. Yes.

6 Q. And then all of the employees and staff members
7 have access to the electronic version?

8 A. Yes.

9 Q. Now, I think you were present when I took Jana
10 Clyde's deposition last month?

11 A. Yes.

12 Q. One of the things that she testified to was
13 that she never received a policy and procedures manual. It
14 sounds like you don't circulate hard copies of the manual to
15 employees and staff in any way. Is that right?

16 A. We don't. Can I explain why?

17 Q. Yes.

18 A. The reason that it's not distributed to them to
19 take home or to take out into a common area or something like
20 that is because it's safety and security of the jail.
21 Obviously we wouldn't want policies and procedures to be
22 reviewed by individuals that might be contemplating escape or
23 being able to get contraband or other items into the jail.
24 So they're kept in more of a controlled environment, and
25 that's why.

1 Q. Now, Jana Clyde is a civilian, not an officer.

2 Correct?

3 A. Yes.

4 Q. So would she have gone through the field
5 training process that you described to me?

6 A. Not to the extent that a correctional officer
7 would.

8 Q. Was she mandated to review the policies and
9 procedures manual and sign something indicating that she had?

10 A. Yes.

11 Q. So does the County -- do you believe that the
12 County has a copy of the document signed off by a field
13 training officer indicating that -- and Jana Clyde indicating
14 that she's read and reviewed and understands the policies?

15 A. She should. I don't know if there is one.
16 From time to time, as new employees come in, they might
17 review it. But it's not signed or documented. But we -- and
18 again, it doesn't necessarily have to be just a -- something
19 that they're oriented with as they come in as a new employee.

20 Again, policies and procedures are updated on a
21 continual basis. So they are instructed not only in their
22 field training but in office meetings and staff meetings
23 that, you know, this particular policy has been updated.

24 (Whereupon, Mr. Steve Loos left the deposition
25 proceedings.)

1 THE WITNESS: You are to become aware of it,
2 become familiar with it. Especially if it happens to be in
3 your realm of responsibilities.

4 BY MR. HANCEY:

5 Q. Is there any document you could point me to
6 that would indicate whether or not Jana Clyde was provided
7 with the policies and procedures and acknowledged that she
8 read and understood them?

9 A. I can't, no.

10 (Court reporter interrupted for clarification.)

11 THE WITNESS: Right. Sorry. Focusing in on
12 counsel. I'll try to be a little better.

13 BY MR. HANCEY:

14 Q. What is the jail's practice on ensuring that
15 its employee and staff members are aware of changes in
16 policies as those are made from time to time?

17 A. It can be done a number of ways. An e-mail,
18 verbal instruction in a staff or office meeting that there's
19 new policies that are in place and that they need to be aware
20 of those.

21 Q. As far as the updates to the written policy and
22 procedures manual that apparently happen annually, is it true
23 that the only way an employee or staff member would become
24 aware of those new policies would be to get on-line or check
25 the hard copy located in the jail and go through them one by

1 one?

2 A. Not the only way.

3 Q. Well, how -- I mean, the policies and
4 procedures manual is 900 pages long.

5 A. Right.

6 Q. I guess I'm trying to understand how an
7 employee would become aware of what all of the policy changes
8 were from the prior year to the current year.

9 A. They could either be told, which would be one
10 way. But if they were told, it would be their responsibility
11 to go into that system and review it. Obviously, not all of
12 the policies are changed every year.

13 Q. Sure.

14 A. Not all of the policies apply to all employees
15 based on what their responsibility might be. Obviously a
16 patrol officer doesn't really need to know how to move an
17 inmate in the jail because that's not in his area of
18 responsibility. So if it has to do with an area of their
19 responsibility, they should be reviewing those particular
20 policies. Especially if they have been indicated by
21 administrative that they have been changed or updated.

22 Q. In 2016, did the jail require its employees and
23 staff members to undergo training of any kind on its policies
24 and procedures?

25 A. Yes. They're required to go through field

1 training.

2 Q. That's when they're hired. Is that right?

3 A. Uh-huh.

4 Q. Okay. And you haven't done this yet, so why
5 don't you just quickly describe for me the field training
6 process for a new employee.

7 A. So as a new employee comes into the jail
8 setting, for instance, they would be oriented into -- it's
9 quite an extensive process.

10 Q. How long does it take?

11 (Whereupon, Mr. Steve Loos returned to the
12 deposition proceedings.)

13 THE WITNESS: At least 14 weeks.

14 MR. HANCEY: Okay.

15 THE WITNESS: Sometimes longer than that
16 depending on the progress of the employee. Obviously some
17 individuals pick up their job assignments and their
18 responsibilities quicker than others.

19 BY MR. HANCEY:

20 Q. And you've told me that part of that process is
21 a requirement that the new employee look over the policies
22 and procedures and acknowledge that they read and understood
23 them?

24 A. Yes.

25 Q. That's signed off by the field training

1 officer. Correct?

2 A. Yes.

3 Q. Do staff members or civilian members of the
4 jail staff have to undergo field training?

5 A. Not to that extent. They do receive
6 orientation and instruction on the job sites. They would
7 have to demonstrate that -- you know, that they would -- they
8 are able to handle their assignments and be proficient in
9 them.

10 Q. Okay. Let's focus on Nurse Clyde for a minute.
11 So she is a civilian member of the jail staff. Correct?

12 A. Right.

13 Q. And her occupation, I mean, she's an LPN, a
14 licensed practice nurse. Right?

15 MR. MYLAR: Practical.

16 MR. HANCEY: Practical nurse, right.

17 BY MR. HANCEY:

18 Q. Is that correct?

19 A. Yes.

20 Q. Okay. So when she -- and she's worked at the
21 jail for how long?

22 A. I think she's been there five or six years.
23 She was hired before I became sheriff.

24 Q. I see. So when a civilian like Jana Clyde
25 comes on to start working for the jail, do you know if she

1 underwent field training?

2 A. She would have -- yeah, she would have went
3 through a...

4 Q. An orientation?

5 A. An orientation process, yes.

6 Q. Describe for me what that orientation process
7 would have looked like.

8 A. Uhm, that would have been done by some of our
9 administrative staff. It would have been done by some of the
10 correctional staff and, obviously, from our medical provider,
11 Dr. Tubbs and -- and Logan Clark.

12 Q. So they would have shown her what her
13 responsibilities were going to be on the job. Is that right?

14 A. Yes.

15 Q. They would have answered questions that she
16 had, I suppose?

17 A. Yes.

18 Q. Anything else? Any discussion of policies and
19 procedures of how to handle situations? Or was that more
20 on-the-job training as circumstances arise?

21 A. I believed it to be both. Obviously our jail
22 staff and our administrative staff aren't going to instruct
23 our nurse or our doctors on how to perform their jobs. It's
24 not our responsibility to be able to dictate to them what
25 medical needs might be. That would be more their area of

1 responsibility. Some of that stuff would have come from --
2 that she received would have come from Dr. Tubbs and Logan
3 that she needed to be able to perform her functions at the
4 jail.

5 Q. Do you believe that any advice or counsel that
6 Jana Clyde would have received during her orientation process
7 on how to handle the medical aspects of her job at the jail
8 would have come from Dr. Tubbs or Logan Clark?

9 A. Yes.

10 Q. Other than the field training, slash,
11 orientation process we've talked about, in 2016, did the jail
12 require its employees and staff to undergo any other training
13 concerning its policies and procedures?

14 A. We're constantly reviewing policy and
15 procedures, and a lot of that is done with staff meetings or
16 office meetings. There might be a particular policy that is
17 picked out, and they receive instruction on it, either in
18 depth or general.

19 Q. Who would direct the staff meetings you've
20 described?

21 A. It would either be me, it could be our jail
22 commander, my chief deputy, my patrol lieutenant. Staff
23 sergeant might conduct that meeting. Usually an office or
24 staff meeting is conducted by a senior administrative
25 officer.

1 Q. How often do those take place?

2 A. Now or back then?

3 Q. Back then.

4 A. Back then, they would take place monthly.

5 Q. Did the staff meetings in 2016 ever touch on
6 policies and procedures related to the medical care of
7 inmates?

8 A. Yes.

9 Q. What do you remember about that specifically?

10 A. I remember some of that being emergency
11 situations where you might need to call an ambulance.
12 Obviously safety and security of the jail is utmost. There
13 are times when there's inmates out in the common area or in a
14 hall; if there's a medical issue that arises, obviously we
15 wouldn't want to bring emergency medical staff in there where
16 there were inmates still in those common areas. So it would
17 be -- we would have went over some of those issues that we
18 needed to address as far as making sure that those inmates
19 were secure before we allowed them back in through the
20 sliding doors into our first security portion of the jail.

21 I remember times when we -- during that year,
22 that we addressed documentation, different forms that were
23 used, updated. I remember booking forms that were updated.
24 Probable cause statements would have been updated. Officers
25 would have been informed that if there is any medical issue

1 that an inmate is having, arrestee, if you will, is having
2 when they bring them in for booking, that those concerns
3 should be passed on to the booking officer or the booking
4 clerk, either verbally or in writing on the form, so that
5 those issues can be addressed.

6 Q. Okay.

7 A. That information that's passed on from the --
8 there's information that's gathered from -- obviously from
9 the arresting officer that the booking clerk wouldn't know.
10 And so we would have addressed making sure that that
11 information was passed on with any other relevant
12 information.

13 Q. Okay.

14 We've looked at Exhibit No. 13, and my
15 understanding is that represents the jail's opiate and/or
16 heroin withdrawal policy?

17 A. Yes.

18 Q. As it currently exists. Right?

19 A. Yes.

20 Q. There's been testimony from other witnesses
21 that this policy came into effect after Madison passed away.
22 Is that right?

23 A. Yes.

24 Q. And prior to November of 2016, did the jail
25 have a policy similar to Exhibit 13 to deal with situations

1 involving opiate withdrawals?

2 A. No.

3 Q. Prior to November of 2016, was there a policy
4 in the jail that would dictate the circumstances under which
5 Dr. Tubbs or Logan Clark were to be contacted?

6 A. Yes.

7 Q. Okay. Tell me about that policy.

8 A. It's in our medical portion of the policies and
9 procedures. It's quite extensive. If you would like me to
10 review any portion of it, I...

11 Q. Is that the pages that I took and put in
12 Exhibit 51 under the index?

13 A. They may have access to mental -- or
14 healthcare?

15 Q. Yes. Is that the section you're referring?

16 A. You're referring to what you attached to --

17 Q. Yes. And so, Sheriff, if you'll look on
18 Exhibit 51, as I indicated earlier, the first two pages are
19 the index to the policies and procedures manual as a whole.
20 The rest of the pages in that exhibit constitute the inmate
21 access to healthcare section of the manual. Do you see that?

22 A. Uh-huh.

23 Q. Okay. Is that the section you were referring
24 to earlier?

25 Do you understand my question, sir? Is this

1 the section where you would expect to find the instruction on
2 when to call the doctors?

3 MR. HOMER: I think he's looking right now --

4 MR. HANCEY: Okay.

5 MR. HOMER: -- to be able to answer that
6 question.

7 MR. HANCEY: Sure.

8 THE WITNESS: Yes.

9 BY MR. HANCEY:

10 Q. Okay. And where would we find it in
11 Exhibit 51?

12 A. What was your specific question again?

13 Q. Yes. I'm asking you to help me understand what
14 the jail's policy in 2016 was concerning the circumstances
15 under which Dr. Tubbs or Logan Clark was to be contacted.

16 A. I don't see it in here.

17 Q. Okay. Does that mean that there was no such
18 written policy?

19 A. No.

20 Q. What does it mean?

21 A. It means that, generally speaking, this is the
22 policy that would be in place, but at the time, again, there
23 is general orders, there is verbal orders and there is
24 standard operating procedures that I don't see in here.

25 Q. Well, I asked for, in discovery, all of the

1 policies and procedures concerning these types of issues. I
2 didn't see any standard operating procedure or direct orders,
3 general orders that covered this topic. Are you aware of any
4 as we sit here today?

5 A. That would cover this particular topic?

6 Q. Yes.

7 A. No.

8 Q. Okay.

9 A. Not written.

10 Q. Not written? Was there a verbal --

11 A. Yes.

12 Q. -- understanding?

13 A. Yes.

14 Q. Okay. And what was the verbal understanding in
15 place in 2016?

16 A. As far as a medical emergency?

17 Q. No. As far as when somebody at the jail was
18 supposed to contact Dr. Tubbs or Logan Clark?

19 A. If the inmate -- if an arrestee was brought
20 into the jail and they had a medical issue that was serious,
21 they should have had a prescreen by the ER doctor before they
22 were even brought to the jail. Now, that's twofold. One for
23 our correctional staff, the other for our patrol staff.

24 They shouldn't even be bringing them into the
25 jail if they have a serious medical issue that is prevalent,

1 obvious. They are to take those individuals to the ER and
2 get a medical clearance before they even come to the jail.
3 If they get to the jail and it's obvious to that booking
4 officer or the booking clerk that that individual is in need
5 of medical attention on a serious issue, they won't accept
6 them into the jail without that medical clearance.

7 And so it's up to the officer to be able to get
8 that. It can be any agency, UHP, a police department, our
9 own officers; it goes across the board to everyone. If
10 there's a serious medical issue that was observed there
11 either by any of the staff, booking officers or the booking
12 clerk, or it's communicated to them, then they wouldn't
13 accept them. It would be that officer or that agency
14 responsibility to transport that individual or deal with that
15 medical issue.

16 **Q. Call the doctor possibly?**

17 A. They could. If they did receive a medical
18 clearance from the ER and they arrived at the jail, and now
19 they're experiencing something that maybe the doctor wouldn't
20 have been aware of, then they could call the doctor and let
21 them know what they are seeing or experiencing and get
22 instruction from the doctor on how to proceed from there.
23 Whether they wanted to see them back or -- we expected that,
24 we expected, you know, that maybe it would be these signs or
25 symptoms, and then that's okay, go ahead and accept them.

1 If they were accepted into the jail, then if
2 they observed something after the officer, arresting officer,
3 would have left, then if it's a serious medical issue, they
4 have a couple of options. One is that they would call
5 emergency services, the ambulance, and have them come and
6 transport that individual to the hospital. Or they would
7 call Logan Clark. Or at the time they could call Nurse
8 Clyde. Either of those. Very rarely would they call
9 Dr. Tubbs personally. Logan Clark was the one that was on
10 call.

11 Q. Everything you're telling me about right now
12 would be dealing with situations that happened when a new
13 inmate is being booked in, right, and something is noticed at
14 that point in time?

15 A. Yes, or after.

16 Q. Is it your understanding that in 2016, both
17 Nurse Clyde and any correctional officer could contact
18 Dr. Tubbs or Logan Clark directly if they thought it was
19 necessary?

20 A. Yes. Or they could call an ambulance.

21 Q. In Jana Clyde's deposition, I asked her this
22 question. From the time you were hired until November 2016,
23 do you recall receiving any training on jail policies and
24 procedures? And her answer was no.

25 Is that consistent with your understanding?

1 A. I don't know. I haven't reviewed her personnel
2 file. I couldn't answer yes or no.

3 Q. Let me have you look at Exhibit No. 34. Now, I
4 covered this with Jana Clyde. This appears what the County
5 produced in response to my request for Jana Clyde's training
6 records. It appears to me that the first page of this
7 exhibit itemizes the training she received in 2015, and the
8 second page represents the training that she received in
9 2017. But there was no such record for the calendar year
10 2016.

11 Is that because Jana Clyde didn't receive any
12 training in that year?

13 A. She might not have reported it. It doesn't
14 mean that she didn't receive any; she might not have reported
15 it.

16 Q. Is the employee or staff member responsible for
17 reporting their own training to the jail?

18 A. To our office manager in the jail, yeah.

19 Q. So the jail doesn't keep its own records on
20 what training people receive?

21 A. I'm trying to think back at the time. It might
22 be different. It might have been different than it is now.
23 I don't recall whether the jail was keeping their own
24 training file back there or our office manager was. She
25 keeps our patrol. I know that she keeps our patrol. But I

1 don't recall in 2016 who was keeping their record at that
2 time.

3 Q. Sitting here today, do you know one way or the
4 other whether Jana Clyde received any training in 2016?

5 A. No. Except for what's reported there.

6 Q. What's reported in Exhibit --

7 A. 2017 and 2015.

8 Q. Okay. Did the jail have a heroin withdrawal
9 protocol in place in 2016?

10 A. No.

11 Q. Let me have you look at what's been marked as
12 Exhibit No. 39. Do you know what Exhibit No. 39 is?

13 A. Appears to been an opiate withdraw protocol.

14 Q. My question is, had you ever seen this document
15 prior to this lawsuit being filed?

16 A. Yes.

17 Q. Okay. Tell me where you saw it.

18 A. Oh, excuse me. Strike that.

19 Q. Okay.

20 MR. HOMER: Counsel, again, I'd ask if he can
21 compare this to the other exhibit.

22 MR. HANCEY: Oh, yes, sure.

23 MR. HOMER: That's the confusion.

24 MR. HANCEY: So you've testified that

25 Exhibit 13 -- sorry, that wasn't intentional. But the

1 Exhibit 13 is the policy you said that was put into effect
2 after Madison died. So go ahead and look at that and then
3 look at Exhibit 39.

4 MR. HOMER: Counsel, if I could just note for
5 the record, the Bates stamp on Exhibit 13 indicates it was
6 produced by --

7 MR. HANCEY: The County.

8 MR. HOMER: -- the County. And Exhibit 39
9 indicates it was produced by Clark.

10 MR. HANCEY: Logan Clark. Correct.

11 MR. HOMER: Logan Clark, yeah.

12 THE WITNESS: Okay. I've reviewed them both.
13 What was your question?

14 BY MR. HANCEY:

15 Q. My question is, have you ever seen Exhibit 39
16 prior to this litigation?

17 A. Prior to the filing of the litigation?

18 Q. Yes.

19 A. Which was in 2016?

20 Q. Yes.

21 A. No.

22 Q. No? Okay. All right.

23 MR. HOMER: This case was filed in 2017, wasn't
24 it?

25 MR. HANCEY: Perhaps. Yeah.

1 MR. HOMER: Not that that -- I think the
2 question was whether he'd seen it before the litigation, and
3 2016 was mentioned.

4 THE WITNESS: I don't know when it was filed.
5 If you're asking me if I seen this prior to Madison's death?

6 MR. HANCEY: Yes.

7 THE WITNESS: No.

8 MR. HANCEY: Okay. Fair enough.

9 BY MR. HANCEY:

10 Q. Now, let me have you look again at Exhibit 51
11 right there that's loose. Turn to the third page where we
12 have the policy section on inmate access to healthcare. Is
13 it your understanding that this section, Section 500.10, is
14 the section of the jail's policies and procedures manual as
15 it existed in 2016 dealing with the healthcare of inmates?

16 A. I'm sorry, Counsel, I was trying to orient
17 myself a little bit. Can you ask me that again?

18 Q. Yes. Is this Section 500.10 the exclusive
19 section of the jail's policy and procedures manual from 2016
20 that deals with the health or medical care of inmates?

21 A. Yes.

22 Q. Now, from your experience and knowledge from
23 being a police officer for many, many years, do you
24 understand that some of the symptoms of opiate withdrawals
25 include vomiting and diarrhea?

1 MR. MYLAR: Objection. Lack of foundation.

2 MR. HANCEY: I'm trying to establish some
3 foundation.

4 MR. MYLAR: That's fine.

5 THE WITNESS: I do now.

6 BY MR. HANCEY:

7 Q. Okay. All right. You didn't in 2016?

8 A. No.

9 Q. Now, there are several ways in which a jail
10 employee or a staff member could learn that an inmate was
11 vomiting or had diarrhea. Do you agree with that?

12 A. Yes.

13 Q. One might be that the inmate self-reports?

14 A. Yes.

15 Q. One might be that they ask for and fill out a
16 medical request form?

17 A. Yes.

18 Q. One might be that an officer in the control
19 room sees it happen on camera?

20 A. Yes.

21 Q. One might be that an officer doing hourly
22 checks sees evidence of that through the window of the cell?

23 A. Yes.

24 Q. Or they might enter the cell and see evidence
25 of vomit or so forth in the toilet or in the tote in the

1 prisoner's cell. Right?

2 A. Yes.

3 Q. So setting aside opiate withdrawals for a
4 minute and focusing exclusively on those symptoms, the
5 symptoms of vomiting and diarrhea, did the jail have any
6 policies and procedures in place in 2016 dealing with what to
7 do if an inmate was experiencing those symptoms?

8 A. They would notify the medical staff.

9 Q. Was that a written policy or something else?

10 A. It was something else.

11 Q. What kind of policy was it?

12 A. It would have been more of a verbal that
13 would -- something would have been addressed both in
14 continual instruction and their initial field training.

15 Q. Okay. If I understand your explanation of that
16 instruction, it would have been that if a correctional
17 officer or staff member becomes aware that an inmate is
18 vomiting or has diarrhea, they're to alert somebody on the
19 medical team?

20 A. Probably not that specifically. If they see
21 something that would indicate that that individual is
22 experiencing some kind of medical issue, that there would be
23 need to be some intervention, and they should notify medical.

24 Q. Okay.

25 A. Or at least a supervisor, if not medical. If

1 it was a supervisor, obviously they would notify medical.

2 Q. Yeah. I think that the disconnect here is that
3 the correctional officers don't have medical training for the
4 most part. Is that a fair statement?

5 A. They have had first aid. As far as any
6 extensive medical training, no.

7 Q. And so my question goes beyond whether -- I
8 mean, I understand what you're saying, which is that the
9 correctional officers were told to contact medical if they
10 saw something that they deemed to be a medical situation or a
11 medical emergency. Right?

12 A. If it's a medical emergency, they would have --
13 they would have had a few options.

14 Q. My question is much more simple. Was there a
15 policy in place that said here's what you do if you observe
16 an inmate vomiting or evidence that an inmate has been
17 vomiting?

18 A. Yes.

19 Q. Written or verbal?

20 A. Verbal.

21 Q. And what was the verbal policy in place at the
22 time?

23 A. It would have been to notify a supervisor,
24 Nurse Clyde or Logan Clark.

25 Q. Okay. So just I want to make sure I understand

1 **this. Your testimony is that --**

2 A. Let me rephrase that because I -- that's not
3 totally accurate.

4 **Q. Okay. Please do.**

5 A. It depends on the severity of it. Obviously,
6 if an officer observed an inmate that threw up one time, uhm,
7 they might not feel that it rises to the point where they
8 need to notify medical or even a supervisor. Or if they see
9 them -- you know, if they see them gag and throw up,
10 obviously, that --

11 **Q. Self-inflicted?**

12 A. A self-inflicted situation, then they wouldn't
13 need to be notifying medical that that was going on. They
14 might pass that on to the next shift that, you know, I seen
15 this individual doing this; you might want to watch that. Or
16 give them a written pass-on or something like that. Just
17 because they saw somebody throw up or something in a tote or
18 in the cell wouldn't -- in itself, wouldn't necessarily mean
19 that they would need to report that to medical.

20 **Q. So then it sounds, really, like what you're**
21 **saying is it was up to the officer's discretion as to whether**
22 **or not it was something that was reportable or not?**

23 A. Yes.

24 **Q. Now, these officers have staggered shifts.**

25 **Right? I mean, an officer might work seven to five or seven**

1 to seven, leave for the day, and they're replaced by somebody
2 else who comes on for the next shift. Correct?

3 A. Yes.

4 Q. And so if somebody is sick and they vomit one
5 time during the first officer's shift and one or two times
6 during the next officer's shift and then another time the
7 next officer's shift, that's multiple times over a pretty
8 short period of time. But every single officer might not, in
9 their discretion, think that it rises to the level of
10 something they need to report.

11 Did the jail have anything in place to deal
12 with the situation I just described?

13 MR. HOMER: Objection. Assumes facts not in
14 evidence. Calls for speculation.

15 Go ahead.

16 MR. HANCEY: And it was a long-winded question.
17 But do you understand what I'm getting at?

18 THE WITNESS: How would the other officers
19 know?

20 MR. HANCEY: Right.

21 THE WITNESS: They're briefed when they change
22 shifts.

23 BY MR. HANCEY:

24 Q. So tell me about how that process works or what
25 the policy was in place as to how officers were to

1 communicate amongst themselves about medical issues they may
2 have seen during their shift.

3 A. They would have -- when they change shifts,
4 they do a face-to-face and brief any issues that they have
5 encountered during the day. That's one way. The other way,
6 they might have wrote it on the board in a -- it's not chalk,
7 but it's a ink Sharpie. They might have put it on the board.
8 They might have reported it to control to do that pass-on,
9 because they go in and brief in control of any issues that
10 they might need to be aware of.

11 So with your question, if an inmate vomited
12 once under one officer's watch, they should be passing that
13 information to the next shift. I witnessed this office --
14 this inmate vomit or I witnessed this inmate having limping
15 or whatever that might be.

16 Q. Diarrhea?

17 A. Diarrhea. You might want to check that or keep
18 an eye on it.

19 Q. Would you describe what you've just said as a
20 policy that was in place or just your expectation?

21 A. A procedure.

22 Q. Okay.

23 A. And an expectation, yes.

24 Q. Was it a written policy or a verbal one?

25 A. It would have been a verbal one.

1 Q. Now, when we heard from Sergeant Purdy
2 yesterday, she described a situation where she came on and
3 the night shift told her that Madison had been vomiting in
4 the night and that the vomit was black. Do you remember that
5 testimony?

6 A. Yes.

7 Q. Would that be an example of the face-to-face
8 meeting between shifts that you just told me about?

9 A. Yes.

10 Q. And so in that particular instance, at least,
11 you would say that the verbal policy on this kind of
12 communication was being followed?

13 A. Yes.

14 Q. To the extent that officers, then, observed
15 Madison throwing up or evidence of diarrhea during her tenure
16 at the jail, your expectation would have been, and policy
17 would have dictated then, that those officers communicate
18 that information from shift to shift?

19 A. Yes.

20 Q. Some of the jail employees have testified in
21 their depositions that their understanding of the procedure
22 if an inmate was vomiting was to give that person a Gatorade.
23 Would you disagree with their testimony?

24 A. No.

25 Q. Was that, in fact, the procedure, give them a

1 Gatorade?

2 A. Yes. One of them.

3 Q. Were there any other procedures?

4 A. Depending on the circumstance.

5 Q. Okay. Was that outlined somewhere? I mean,
6 what direction were the correctional officers given on how to
7 handle an inmate that was vomiting? I mean, as I understand
8 it, they could use their discretion if -- to report it to
9 medical or not. Is that right?

10 A. Depending on the severity of the circumstances,
11 yes.

12 Q. Do you think that under the circumstances with
13 Madison Jensen, as you understand them, that her medical
14 condition and the fact that she was -- and the fact of her
15 symptoms should have been communicated to medical?

16 A. Yes.

17 Q. Do you think that that should have been
18 communicated by any officer who observed her vomiting, have
19 diarrhea or not eat?

20 A. Initially, probably not. But as things -- as
21 she had been observed throughout the day and continuing, yes,
22 they should have reported it to medical.

23 Q. Now, assuming that they -- let's assume for a
24 minute that one or more officers did report Madison's
25 symptoms to Jana Clyde. She was the medical person on hand

1 at the jail. Right?

2 A. Yes.

3 Q. Okay. What did policy dictate Jana Clyde was
4 to do, then, with that information?

5 A. She would have -- she could either handle it
6 herself, or she could contact PA Logan Clark and receive
7 further instruction.

8 Q. Would that be a written policy or just a verbal
9 thing?

10 A. It would be a verbal. Yeah. I'm trying to
11 think if there was anything written in an order or a SOP, but
12 I -- right offhand, I can't think of one.

13 Q. Is it fair to say, then, that because the jail
14 is hesitant to get involved in medical matters, it hires
15 somebody like Jana Clyde and then gives her the discretion to
16 decide how to handle a given medical situation?

17 A. We contract with Dr. Tubbs for our management
18 of our medical in the jail.

19 Q. Well, that's true. But Dr. Tubbs isn't sitting
20 at the jail getting information from correctional officers.
21 Right?

22 A. Dr. Tubbs?

23 Q. Right.

24 A. Dr. Tubbs isn't, no.

25 Q. Neither is Logan Clark?

1 A. Yes, he is.

2 Q. Well, he's not working at the jail?

3 A. But he receives information from our
4 correctional officers on medical issues that he needs to
5 address.

6 Q. Under what circumstances or -- strike that.

7 What was the policy on when -- in 2016, when a
8 correctional officer should contact Logan Clark directly?

9 MR. MYLAR: Objection. Asked and answered.

10 THE WITNESS: If he -- if a correctional
11 officer observed something -- Jana Clyde doesn't work seven
12 days on, seven days a week -- or 12 hours on -- 24 hours on
13 seven days a week. And so if she's not there, and they see a
14 medical issue that they feel like that needs to be addressed,
15 then they would contact Logan Clark via phone or a text
16 message.

17 BY MR. HANCEY:

18 Q. So then would the circumstance be limited to
19 one when Jana Clyde wasn't working?

20 A. They could contact Logan themselves even if she
21 was working.

22 Q. Okay.

23 A. But generally speaking, if she was there, then
24 they would go through her and have her contact Logan, if
25 needed.

1 Q. Do you recall hearing when Jana Clyde testified
2 that her practice was to ask inmates to save samples of their
3 vomit and diarrhea?

4 A. I heard that testimony, yes.

5 Q. Okay. Would you characterize that as the
6 jail's policy in 2016?

7 A. No. That was the first I had heard of it.

8 Q. So the jail didn't ask Jana Clyde to implement
9 that policy or practice?

10 A. I didn't.

11 Q. In 2016, what was the jail's policy in keeping
12 the cells clean and sanitary?

13 A. They would -- most of the sanitation for the
14 jail is done by the -- each individual inmate. They're
15 responsible to keep their area clean. They're provided
16 cleaning supplies, they're provided things to make sure that
17 their area is clean. They're expected to do that.

18 In their orientation when they're booked in,
19 they're explained by a pamphlet indicating --

20 (Court reporter interrupted for clarification.)

21 (Off-the-record discussion)

22 (Record read)

23 THE WITNESS: They receive a pamphlet of some
24 of the rules and procedures of the jail. And part of that
25 orientation is, both verbally and in the pamphlet, it

1 indicates that they're responsible to clean their area or
2 their particular cell and keep it clean from clutter. And
3 that if they need cleaning supplies or whatever, then they
4 should indicate that through -- to a correctional officer or
5 to control that they can do that.

6 BY MR. HANCEY:

7 Q. How would that --

8 A. If --

9 Q. Go ahead.

10 A. If an inmate is moved from one cell to another,
11 obviously we wouldn't want any -- if there was vomit or
12 diarrhea in a cell where an inmate was moved out of and
13 another inmate was moved in, we would want to make sure that
14 that was sanitized. And so inmate crews or inmate workers in
15 the jail would come in and clean that and sanitize that cell
16 before another inmate was moved into it.

17 Q. How would the sanitation policy you've
18 described apply to a situation where an inmate vomits in
19 their cell on the floor, on their bedding, and the cell is
20 dirty?

21 A. Again, the inmate could request some cleaning
22 supplies to have that cleaned. If it was to a point where
23 they were incapable of cleaning that or they had been moved,
24 then an inmate worker would be called down to clean that up.

25 (Whereupon, Mr. Steve Loos left the deposition)

1 proceedings.)

2 THE WITNESS: Bedding would be removed or
3 clothing provided back to the inmate.

4 BY MR. HANCEY:

5 Q. So if an inmate reported that there was vomit
6 on their bedding or clothing, then that would be replaced?

7 A. Yes.

8 Q. Likewise, would that be the case if an officer
9 observed that situation on one of their checks?

10 A. That there were vomit and -- in the --

11 Q. Vomit on their clothing or on their bedding or
12 on their floor?

13 A. Yes.

14 Q. Is it true that Logan Clark or Dr. Tubbs is on
15 call for the Duchesne County Jail 24 hours a day?

16 A. Yes.

17 Q. Was that the case in 2016 as well?

18 A. Yes.

19 Q. In 2016, was there any policy in place
20 describing the circumstances under which Nurse Clyde would be
21 required to call Dr. Tubbs or Logan Clark? Or was it left to
22 her discretion?

23 A. It would be left to her discretion whether she
24 did or not.

25 Q. If, in 2016, there was a medical issue and a

1 correctional officer told Nurse Clyde about it, would you
2 consider that that officer complied with existing jail
3 policy?

4 A. Yes. Well, again, I guess that's not a yes or
5 no question. If they told Nurse Clyde, if she was available
6 and she was there and they told her, they would have complied
7 with that. If there is a serious medical emergency in there,
8 they don't have to go through Nurse Clyde. They can call
9 emergency services to come and have them take care of that.
10 She's just another tool. But they had the discretion to call
11 an ambulance if -- without her permission or authority, if
12 they feel like that there is a serious medical emergency that
13 needs to be addressed then.

14 Q. I'm going to read a few statements to you that
15 Logan Clark has made in one of his interviews in this case.
16 Okay? And I'm going to ask whether or not you agree or
17 disagree.

18 A. Okay.

19 MR. HOMER: Is there a record?

20 MR. MYLAR: Yeah. Where are you reading from?

21 MR. HANCEY: Sure. We can do that. Okay. The
22 first exhibit would be Exhibit No. 49.

23 Sorry. Not 49.

24 MS. ABKE: 14?

25 MR. HANCEY: 44? No, that's not right either.

1 Which one is Logan Clark's?

2 MS. ABKE: Isn't it 14?

3 MR. HANCEY: Oh, you may be right. I'm sorry.

4 Let's try Exhibit 14. That's right.

5 BY MR. HANCEY:

6 Q. Okay. Let me have you turn to Bates Page 49 of
7 that exhibit if you would.

8 MR. MYLAR: What's the line?

9 MR. HOMER: Page 13.

10 MR. MYLAR: Page 13?

11 MR. HANCEY: Yes, Page 13.

12 THE WITNESS: Oh, you're referring to the Bates
13 stamp at the bottom?

14 MR. HANCEY: I am.

15 THE WITNESS: I'm sorry, I'm with you now.

16 BY MR. HANCEY:

17 Q. Okay. All right. So in the last large
18 paragraph on that page, Logan Clark says, "At any given time,
19 there's probably five or six people withdrawing from
20 something at Duchesne." Do you agree that that was the case
21 in 2016?

22 A. Yes.

23 Q. Now let me have you look at Bates Page No. 44.

24 A. Okay.

25 Q. In the first large paragraph on that page,

1 Logan Clark is talking about inmates that are exhibiting
2 symptoms of withdrawals. And he says that he expects vital
3 signs to be taken once a day and inmate be checked on
4 routinely during the day. "And then if symptoms progress or
5 worsen, I should be notified."

6 Do you agree that was what jail staff and
7 officers should have done in 2016?

8 A. Yes.

9 Q. So, then, let me ask it more specifically. If
10 an inmate was known to be withdrawing from drugs or
11 exhibiting those kind of symptoms, vomiting and diarrhea,
12 would you expect Nurse Clyde to take that inmate's vital
13 signs daily?

14 MR. MYLAR: Objection. Lack of foundation.

15 MR. HOMER: Join.

16 THE WITNESS: You lost me. I'm not...

17 When you objected, I...

18 BY MR. HANCEY:

19 Q. If an inmate in 2016 was experiencing the kinds
20 of symptoms associated with drug withdrawals, did jail policy
21 dictate that the inmate's vital signs be taken once a day?

22 MR. MYLAR: Objection. Lack of foundation.

23 THE WITNESS: Well, there would be several
24 types of drug withdrawals.

25 MR. HANCEY: Okay.

1 BY MR. HANCEY:

2 Q. Under any of those -- are you aware of any
3 circumstances under which policy dictated that an inmate's
4 vital signs be taken daily?

5 A. No.

6 You were talking 2016. Right?

7 Q. That is right. Yes.

8 Look on page -- it's Page 18 or Bates Page 54.

9 And the last -- about eight lines up from the bottom, he
10 says, "So if someone is throwing up, I would want a phone
11 call." Do you see that?

12 A. Okay. Yeah.

13 Q. Is that statement consistent with what the
14 jail's policy was in 2016?

15 A. No.

16 Q. Logan Clark says that the only time he was
17 contacted about Madison was on Monday, November 28th, to
18 approve a clonidine prescription. If that statement is true,
19 did Jana Clyde's failure to communicate information about
20 Madison's symptoms to Dr. Tubbs or Logan Clark violate the
21 jail's policies in place at the time?

22 MR. MYLAR: Objection. The statement is
23 contrary to the exhibit you just showed which says that he
24 was contacted regarding medication and that he didn't know
25 until Wednesday that she was there. Which assumes that there

1 is more than one contact in this transcript you just read
2 from.

3 MR. HOMER: And my objection, assumes facts not
4 in evidence. Calls for speculation.

5 Go ahead.

6 MR. HANCEY: Okay. Jamie, go ahead and re-read
7 that question.

8 THE WITNESS: That was a long question.

9 (Record read)

10 MR. MYLAR: And I renew the same objection.
11 That was Bates stamp --

12 MR. HANCEY: You don't need to renew it. She
13 read the question back, and you're -- you're interrupting his
14 train of thought. That's the reason why we have to read it
15 back in the first place.

16 MR. MYLAR: That's fine.

17 MR. HANCEY: Okay.

18 THE WITNESS: The answer would be no.

19 BY MR. HANCEY:

20 Q. Why not?

21 A. Because that was Monday. She wasn't -- I don't
22 believe she was aware of -- and I'm just speculating, of
23 course -- of what her symptoms entailed. She was calling to
24 verify prescriptions.

25 Q. Well, yeah. My question isn't to take issue

1 with what was said in the Monday conversation. My question
2 is, if that's the only time those two spoke about Madison,
3 was there a policy violation given what happened during the
4 rest of the week?

5 A. I don't know.

6 MR. HOMER: Counsel, did you say to Madison?

7 I -- or about Madison? Because I wasn't...

8 MR. HANCEY: About Madison.

9 MR. HOMER: Okay.

10 BY MR. HANCEY:

11 Q. Now, it is true that if an inmate needed IV
12 fluids in 2016, they would need to be taken to a facility
13 that could accommodate that. Right?

14 A. Yes.

15 Q. That wasn't something the jail could do itself?

16 A. Yes.

17 Q. You heard Deputy Ross's testimony yesterday
18 about the call button located in inmates' cells. Right?

19 A. Yes.

20 Q. And also how somebody working as the controller
21 would handle those types of calls?

22 A. Yes.

23 Q. Do you agree with his testimony?

24 A. Yes.

25 Q. One thing I asked him was whether or not there

1 was a policy at the jail on documenting the nature of inmate
2 calls from -- using the call button. Do you know whether or
3 not there was a policy on documenting those calls?

4 A. No.

5 Q. You don't know or there was not?

6 A. I don't know that there was a policy.

7 Q. Let me have you look at Exhibit No. 5, please.

8 A. Okay.

9 Q. Do you recognize that document?

10 A. Yes. It's a medical request form.

11 Q. And this is, in fact, the medical request form
12 that Madison Jensen filled out during her time at the jail.
13 Right?

14 A. Yes.

15 Q. Now, in this form, Madison says that she's been
16 puking for four days straight, runs, diarrhea, can't hold
17 anything down, not even water. You told me before that
18 correctional officers and staff members have to use their
19 discretion to determine whether or not to contact medical
20 about a given situation. Right?

21 A. Yes.

22 Q. Do you think that any jail employee or staff
23 member that received this kind of information concerning an
24 inmate should have contacted medical?

25 A. Yes.

1 Q. That would have been consistent with jail
2 policy at the time?

3 A. It would have been consistent with a practice,
4 yes.

5 Q. Now, there's some uncertainty as to whether or
6 not this form was filled out on Tuesday or Wednesday. But
7 regardless of the day, do you think it was appropriate for
8 jail staff to wait until Logan Clark arrived at the jail on
9 Thursday morning in his ordinary course to communicate this
10 information to him about Madison?

11 A. They communicated this information to Nurse
12 Clyde.

13 Q. Right.

14 MS. ABKE: To what? I didn't hear you.

15 MR. HANCEY: To Nurse Clyde.

16 THE WITNESS: So they used their discretion in
17 communicating that to her and not contacting PA Clark, which
18 would have been probably what they should have done. She was
19 there.

20 MR. HANCEY: Okay.

21 THE WITNESS: She was on duty.

22 BY MR. HANCEY:

23 Q. Do you think it was appropriate for Nurse Clyde
24 to fail to communicate this information to Logan Clark until
25 the day he arrived in his ordinary course?

1 MR. HOMER: Objection. Foundation.

2 MR. MYLAR: And also objection, contrary to the
3 evidence.

4 MR. HOMER: Go ahead.

5 THE WITNESS: I don't know.

6 MS. ABKE: What was your answer, I'm sorry?

7 THE WITNESS: I said I didn't know --

8 MS. ABKE: You didn't know?

9 THE WITNESS: -- whether it was appropriate. I
10 guess that was the question. Yeah.

11 (Off-the-record discussion)

12 BY MR. HANCEY:

13 Q. In 2016, did the jail have a policy on what was
14 to be done with a medical request form filled out by an
15 inmate?

16 A. Yes.

17 Q. What was that policy?

18 A. It was to be given to medical.

19 Q. To Nurse Clyde?

20 A. Yes. Or put in the medical box. They could
21 have done it a couple different ways. They could have put it
22 in her box or they could have hand-delivered it.

23 Q. Okay. Now, if it was put in the medical box,
24 the only way Dr. Tubbs or Logan Clark would get that is if
25 they physically came to the jail and got it from the box.

1 Right?

2 A. Or it was back -- it had already been retrieved
3 from the box and was in the medical room.

4 Q. Okay. Now, did the jail have a policy during
5 that same time frame on what Nurse Clyde was to do with a
6 filled out medical request form once she received it?

7 A. She would have made a file, inmate file, put it
8 in the file. She would have kept that in the medical room.
9 Because of HIPAA laws and stuff, it wouldn't be something
10 that would be readily accessible to just any staff member.

11 Q. Is that the extent of what she was required to
12 do with the form?

13 A. Uhm, if she would have seen on the form that
14 there was a medical emergency, she could have contacted
15 Dr. Tubbs or initiated any other medical intervention that
16 she would have deemed appropriate at that time. But as far
17 as the form itself, that would be -- that would be it.

18 Q. Now, in 2016, the County had a contract with
19 Dr. Tubbs's office for the provision of medical services to
20 the jail. Right?

21 A. Yes.

22 Q. As I understand it, the day that somebody from
23 Dr. Tubbs's office would come to the jail physically was on
24 Thursdays at that time?

25 A. Yes.

1 **Q. Are you aware of any occasions during that year**
2 **on which Logan Clark or somebody else from Dr. Tubbs's office**
3 **came to the jail on a day other than Thursday?**

4 A. Personally, no, I'm not aware of that. I'm not
5 back there all the time so I'm not sure whether he could have
6 come another day. I know that in our contract, it
7 dictates -- or it states that if, because of inclement
8 weather conditions or any other factors -- you know, other
9 factors, that it could be moved to an alternate day. And I
10 don't recall whether he come on any other day during that
11 period or not.

12 **Q. Generally speaking, though, if in 2016 an**
13 **inmate was sick and filled out a medical request form on,**
14 **say, Saturday, that inmate would need to wait until the**
15 **following Thursday in order to see the doctor?**

16 A. Not necessarily.

17 **Q. Okay. When would that not be the case?**

18 A. If they experienced a serious medical
19 condition.

20 **Q. As deemed by whom?**

21 A. Uhm, the PA, Logan Clark. If an inmate felt
22 that they had a serious medical condition, they could convey
23 that to one of our correctional officers, because they do
24 rounds. They could have filled out one of these request
25 forms and turned it in, which needs to be addressed within 24

1 hours.

2 And so if they were experiencing something that
3 couldn't wait until they seen a physician, then the officer
4 or the nurse would contact PA Clark, give him the
5 information, and he could instruct us to either call an
6 ambulance or to transport that individual to our local
7 hospital or emergency room. So not necessarily they would
8 have to wait. They could exercise that option.

9 Q. Is it fair to say, though, that that would be
10 left up to the discretion of the officer or Nurse Clyde on
11 whether or not to involve medical earlier than on Thursday?

12 A. Yes.

13 Q. And is that a written policy of the jail that
14 existed at the time or is that just sort of a general
15 understanding that jail employees had?

16 A. It was a general understanding.

17 Q. Will you look at Exhibit No. 2, for me, please?
18 Now, this is the pre-booking form that is completed by the
19 arresting officer. Right?

20 A. Yes.

21 Q. Now, you were telling me something earlier
22 today about the need for an arresting officer to convey
23 certain information to the booking officer or clerk. Do you
24 remember that?

25 A. Yes.

1 **Q. Okay. Is there some kind of a policy on that**
2 **sort of a communication?**

3 A. No. It's just a practice only.

4 **Q. And what is the practice?**

5 A. As I explained it before. If they came in with
6 an issue where they had been cleared by the ER, they would
7 need to let them know. They would be given a form, the
8 booking clerk would be given or officer would be given a
9 form, indicating that they had had this medical issue and
10 that the ER had evaluated that and felt like that they were
11 safe to be incarcerated.

12 **Q. Okay.**

13 A. If there were other medical issues or safety
14 concerns either to the inmate or to the staff or even public,
15 then they should be relaying that information to the booking
16 officer or clerk.

17 **Q. What about the fact that the inmate answered**
18 **yes to withdrawing from drugs or alcohol?**

19 A. Okay. So what's the question?

20 **Q. Is that something that jail practice mandated**
21 **the arresting officer communicate to the booking officer or**
22 **clerk?**

23 A. Yes. They would have done that with this form
24 here.

25 **Q. So to be clear, if the arresting officer, in**

1 filling out a pre-booking form, learned that the inmate had
2 answered yes to being under the influence or going through
3 withdrawals from drugs or alcohol, Question No. 3, they were
4 supposed to communicate that information to the person doing
5 the booking?

6 A. Yes, they would have made sure that they got
7 this.

8 Q. So they would have handed the form to the
9 booking clerk?

10 A. The booking clerk, as part of the booking
11 process, if they don't have this form, the officer can't
12 leave.

13 Q. Okay. Are the booking clerks and officers
14 required to read the pre-booking form and be familiar with
15 its contents?

16 A. Yes.

17 Q. Okay. Now look at Exhibit No. 3. This is the
18 intake questionnaire. Right?

19 A. Yes.

20 Q. Okay. And we've already heard about how this
21 is filled out and that process. Was there a jail policy in
22 place in 2016 requiring the booking officer or clerk to
23 provide a copy of this filled-out form to Nurse Clyde?

24 A. Yes.

25 Q. Describe that policy for me, if you would.

1 A. They would have -- after they had filled this
2 out, they would have printed it off. If there was a yes to
3 the having any withdrawals from drugs or alcohol, do you have
4 hypertension or high blood pressure, those type of things, do
5 you have any sexually transmitted diseases, then this form
6 would be printed off and put it in the nurse's box in the
7 booking room.

8 **Q. Was that a written policy or something else?**

9 A. It's a practice. There's -- there's a policy
10 that medical is to keep those files. And so as part of their
11 training they would have been instructed on this particular
12 document, how to fill it out, what to do with it after they
13 filled it out, and where to -- where it would be kept.

14 **Q. Look at Exhibit 6, please. Was there a policy**
15 **in place in 2016 requiring that the booking officer or clerk**
16 **put this in the medical box as well?**

17 A. Yes.

18 (Off-the-record discussion)

19 (Recess taken from 10:49 a.m. to 11:03 a.m.)

20 (Whereupon, Mr. Steve Loos returned to the
21 deposition proceedings.)

22 BY MR. HANCEY:

23 **Q. In 2016, Sheriff Boren, did the jail have a**
24 **policy on what to do with prescription medications an**
25 **incoming inmate had prescribed?**

1 A. Yes.

2 Q. What was that policy?

3 A. If an arrestee was coming into the jail, the
4 arresting officer would try to inquire from that individual
5 whether they were on any kind of medication. If they were,
6 and it was available, they would collect that medication,
7 transport it with the inmate to the jail. Once at the jail,
8 they would indicate to the booking clerk or the booking
9 officer that they had received these medications and what
10 they -- what their understanding was what they were for.

11 Once received by the booking clerk, those
12 medications would be taken back to the medical room and then
13 put into the medical room to be reviewed by the nurse and PA
14 Clark, if he was -- if he were coming. If they were
15 medications that -- they would review a list of medications
16 on our jail, either approved -- our approved list. If those
17 medications were approved, on that approved list, then the
18 officer could immediately start to administer that
19 medication.

20 If it was not the approved list, then -- and
21 they -- and it was something that needed to be -- say, for
22 instance, like insulin, they would -- and it wasn't on the
23 approved list, then they would contact PA Clark, let him know
24 what those medications were, and he would either approve or
25 disapprove those.

1 If it was approved, then they would be
2 administered to the inmate. If they were not approved
3 medications, then they would be taken to the inmate's locker
4 where their personal items were stored and placed there for
5 them to take with them when they were released.

6 **Q. Is what you've just described a written policy**
7 **in the policies and procedures manual?**

8 A. I -- I don't think that it is. I'd have to
9 review to see. But I don't think so.

10 **Q. So it may be --**

11 MS. ABKE: Sheriff, can I ask if you could
12 speak up? The AC turned on and you're soft-spoken, and it's
13 really hard to hear even just down here. So if I could ask
14 you to yell, that would help.

15 THE WITNESS: Yes. Sorry. I'm sorry.

16 BY MR. HANCEY:

17 **Q. So you don't know if it was a policy or**
18 **something that was in practice?**

19 A. Right. Or a procedure.

20 **Q. Or a procedure?**

21 A. Yes, uh-huh.

22 **Q. In this case, Madison came to the jail with**
23 **three prescription medications. Right?**

24 A. That was my understanding.

25 **Q. Do you know if -- do you know what those three**

1 medications are?

2 A. Not offhand, I'm sorry.

3 Q. Okay. I'll tell you what they are. They're
4 tramadol, Wellbutrin --

5 A. Okay.

6 Q. -- and clonidine.

7 A. Okay.

8 Q. Do you know whether or not those medications
9 were on the jail's approved list in 2016?

10 A. I don't know.

11 Q. Okay. The testimony that we've heard in this
12 case so far is that the information on her medications was
13 given to Nurse Clyde, and then Nurse Clyde contacted PA
14 Clark. Would that have been consistent with the practice in
15 place at the time?

16 A. Yes.

17 Q. Okay. Now, there's a dispute over what
18 medications were discussed between Nurse Clyde and PA Clark
19 on Monday. Would it have been consistent with policy,
20 though, for Nurse Clyde to discuss all of the medications
21 that Madison had taken with her to the jail with PA Clark?

22 A. Yes.

23 Q. And it would have been PA Clark's decision at
24 that time whether or not to approve or disapprove them for
25 Madison's use?

1 A. Yes.

2 Q. There's evidence that on Tuesday, Madison was
3 moved to a court holding cell for medical observation.
4 You've heard that testimony. Right?

5 A. Yes.

6 (Whereupon, Ms. Heather Jensen left the
7 deposition proceedings.)

8 BY MR. HANCEY:

9 Q. In 2016, did the jail have any policy on
10 medical observation?

11 A. Just medical itself? Or are we talking
12 about...

13 Q. Well --

14 A. Because there would have -- there would have
15 been some policy for suicide or those type of things. And so
16 is -- specifically, see, I mean --

17 Q. Let me clarify.

18 A. Okay.

19 Q. When we heard Deputy Ross talk yesterday, he
20 was describing a form that was used for suicide watch?

21 A. Yes.

22 Q. And we looked at that form and talked about it
23 a little bit. Remember that?

24 A. Yes.

25 Q. Okay. But there's also been some discrete

1 discussion about people who are moved to a cell or otherwise
2 put on observation for medical reasons that are not related
3 to suicide. That's been referred to, from more than one
4 officer, as medical observation. Do you understand what I'm
5 saying?

6 A. Yes.

7 Q. Okay. And there's evidence in this case that
8 Madison Jensen was put on medical observation on Tuesday.
9 And my question to you is, were there any policies in place
10 in 2016 that dealt with the concept of medical observation,
11 what it entailed, what it meant, what was supposed to be
12 done, those kinds of things?

13 A. I don't know that there was any written policy
14 and procedure in place. There would have been some
15 practices.

16 Q. Okay.

17 A. If it became -- if an officer became aware of a
18 medical problem, a communicable disease or something like
19 that, and they were placed in a holding cell for a medical
20 reason for an observation, if they had an injury that needed
21 to be monitored or treated, then yes, they would be -- there
22 would be a policy that they would move that individual to a
23 cell where they could observe them closer.

24 Q. Okay. We know that that happened with Madison
25 Jensen. Right?

1 A. Yes.

2 Q. And so I guess my question, though, is, she's
3 put on medical observation, but what does that mean
4 practically? How do the officers' responsibility towards
5 that inmate change once they've been put on medical
6 observation?

7 A. It depends on the circumstances.

8 Q. Then let's talk about the circumstance of
9 Madison.

10 A. Okay.

11 Q. Okay? Liz Richens testified that she was moved
12 onto medical observation, as did Deputy Ross, because she had
13 been vomiting, had diarrhea, couldn't keep anything down, she
14 couldn't eat, or she wasn't eating. She was weak and dizzy
15 and so forth, having trouble walking. All of those things
16 you heard those officers talk about. So she was put on
17 medical observation so she could be watched more closely.

18 Do you remember hearing that testimony?

19 (Whereupon, Ms. Heather Jensen entered the
20 deposition proceedings.)

21 THE WITNESS: Yes.

22 BY MR. HANCEY:

23 Q. Okay. And so under those circumstances, where
24 Madison was moved on medical observation, what was supposed
25 to be done?

1 A. One, she would be -- there's a camera under the
2 observation -- or the court holding where she was at. So one
3 of the things that they would do is periodically check the
4 camera to observe her.

5 **Q. How often?**

6 A. As often as they could.

7 **Q. Was there a policy that dictated how often the**
8 **observations had to be?**

9 A. No.

10 **Q. Okay.**

11 A. With the camera. Okay? With -- they would be
12 observed in the observation cell, or court holding,
13 consistent with the other checks unless medical dictated that
14 it should be more frequent.

15 **Q. Meaning Nurse Clyde?**

16 A. Or PA Logan.

17 **Q. Okay. How would Nurse Clyde or PA Logan Clark**
18 **communicate to the correctional officers how frequently**
19 **checks should take place?**

20 A. They would tell them. She would tell them.
21 And if it needed to be more frequent than our regular visits,
22 then that's what the sheet would be hung up there for. And
23 that briefing would take place that this individual, as
24 they -- the shift changes or that, they would be briefed as
25 to we have this number of cells that need to be observed; we

1 have suicide in this one, we have a medical observation in
2 that one.

3 And so as those officers would go back there,
4 if there was a sheet held up there, then they would comply
5 with whatever was on that sheet. I think there's an exhibit
6 in here of one of them.

7 Q. You heard Deputy Ross testify that there should
8 have been a sheet put on Madison Jensen's door once she was
9 moved to medical observation. Do you agree with his
10 statement?

11 A. No.

12 MR. MYLAR: Objection. That misstates prior
13 testimony.

14 BY MR. HANCEY:

15 Q. Okay. Why do you not agree?

16 A. That there should have been?

17 Q. Yes.

18 A. Nurse Clyde was informed of the situation.
19 That would have been a medical call, not his.

20 Q. So, then, once Nurse Clyde was informed that
21 Madison had been moved to -- for medical observation
22 purposes, it was up to Nurse Clyde to determine whether or
23 not a sheet would be hung on her door or not?

24 A. Yes.

25 Q. Where does it say that in the policy manual?

1 A. It doesn't.

2 Q. Then where are you getting your information
3 from?

4 A. From what our practice is back then. And what
5 I have observed.

6 Q. Do you have any idea how Jana Clyde exercises
7 her discretion to determine whether or not a sheet should be
8 hung on an inmate -- on an inmate being medically observed,
9 on the door?

10 MR. MYLAR: Objection. Calls for mental
11 impression.

12 MR. HANCEY: You can answer.

13 THE WITNESS: No, I don't.

14 BY MR. HANCEY:

15 Q. Was Nurse Clyde given any instruction by you or
16 anyone at the jail on how to determine whether or not a
17 medical observation sheet should be put on the door of an
18 inmate under medical observation?

19 A. She wasn't given any instruction by me. And I
20 don't know whether there was anybody in our facility that she
21 would have received instruction from or by our medical
22 provider.

23 Q. So you just don't know one way or the other
24 whether she received instruction on that or not. Right?

25 A. (No oral response.)

1 Q. Right?

2 A. Right.

3 I need to clarify. As I -- I don't know, I was
4 thinking that she probably would have received instruction.

5 Q. Do you know what that instruction was?

6 A. Uhm, it would have been given in a -- an office
7 meeting.

8 Q. Directed by who?

9 A. One of our administrative staff.

10 Q. Were you present?

11 A. Uhm, I'm present at most of them. Now, whether
12 she was there or not, I don't know. But there is instruction
13 given -- there was instruction given on some of that, that
14 particular sheet, before and after Madison's death, on -- on
15 that. Now, whether she received it or not, I don't know.
16 She could have. So just to clarify that, I -- to say no
17 wouldn't be a fair representation of that.

18 Q. Now, Logan Clark has said that inmates put on
19 medical observation should be observed every 30 minutes. Is
20 that consistent with the jail's policy in place in 2016?

21 A. No.

22 Q. Can I have you look at Exhibit No. 30, please?
23 At the bottom of that page, the first page, and just to
24 clarify, this is a portion of the jail's policy and
25 procedures manual on surveillance. Do you see that?

1 A. Yes.

2 Q. Okay. So down at the bottom, this is something
3 I went over yesterday with one of your employees, it says
4 this: Prisoners should be individually observed in their
5 living areas at least once each hour and, whenever possible,
6 every 30 minutes.

7 Is that your understanding of what the policy
8 on checks of inmates was in 2016?

9 A. Yes.

10 Q. So if a regular inmate was, per policy, to be
11 checked on every hour and, when possible, every 30 minutes,
12 then how often was an inmate on medical observation supposed
13 to be checked on in 2016?

14 A. They should comply with this policy.

15 Q. So no more frequently than somebody who is not
16 on medical observation?

17 A. Unless it was a directive from medical.

18 Q. You've said that the court holding cell Madison
19 was in had a surveillance camera in it. Correct?

20 A. Yes.

21 Q. And is the person who is able to watch that
22 camera, the person who's the controller at the time?

23 A. (No oral response.)

24 (Court reporter interrupted for clarification.)

25 THE WITNESS: Yes. I'm sorry. I'm going to

1 have to work on that.

2 BY MR. HANCEY:

3 Q. Who was the on-duty controller on the day that
4 Madison died?

5 A. It would have been Sherry Hogan.

6 Q. Sherry who?

7 A. Thompson, excuse me. She got divorced. Sherry
8 Thompson.

9 Q. Sherry Thompson?

10 A. Uh-huh.

11 Q. Are you aware that Madison was found deceased
12 inside her cell 30 minutes after she died?

13 A. I am aware of that.

14 Q. Can you explain how that could have happened if
15 there was a controller monitoring the camera in her cell
16 continuously?

17 A. As I reviewed the photos and the video of that,
18 it looked like she was just sitting there. So if she -- and
19 I'm just speculating. Because I don't know what she was
20 thinking or how that would happen. If she looked over there
21 and saw her sitting there, she could have thought that she's
22 just sitting there.

23 When I reviewed the tape as -- when she died,
24 it was within -- that whole process was very short, and for
25 her to sit there and look at that camera continually would be

1 impossible.

2 Q. Have you asked Sherry Thompson about what she
3 was thinking at the time?

4 A. No.

5 Q. You want to add something?

6 A. No.

7 Q. Okay. Let me have you look at Exhibit 31.

8 Now, this is a portion of the policy and procedures manual
9 for the jail on healthcare records. Right?

10 A. It is.

11 Q. Now, in the first paragraph there, it uses the
12 term "contracted medical provider." Do you see that? It
13 looks like the third line into the policy.

14 A. Uh-huh.

15 Q. Okay. Who is the contracted medical provider?

16 A. Dr. Kennon Tubbs.

17 (Whereupon, Mr. Steve Loos left the deposition
18 proceedings.)

19 BY MR. HANCEY:

20 Q. Now, if you look at the first letter "A" in
21 this policy, it says that it's the responsibility of the
22 contracted medical provider to create and maintain individual
23 healthcare files on each prisoner including a continuous
24 record of all of the medical care provided for inmate, slash,
25 patients at the jail facility. You see that?

1 A. Yes.

2 Q. Is it your testimony that that policy only
3 applies to Dr. Tubbs?

4 A. No.

5 Q. Who else does it apply to?

6 A. Nurse Clyde.

7 Q. It was, in fact, her responsibility in 2016 to
8 maintain a continuous record of any care that she provided to
9 inmates at the jail. Right?

10 A. That she provided, yes. She would have started
11 a file, and then in conjunction with PA Clark and Dr. Tubbs,
12 those records would have been kept by them.

13 Q. Now, with one exception, there are no records
14 kept by the jail that indicate when Madison was given a
15 Gatorade. Do you agree with that?

16 A. Yes.

17 Q. Okay. And there's also no document --

18 A. Actually, no, I don't.

19 Q. Okay. Explain yourself.

20 A. What do you mean by a record? Because there's
21 video there that is considered a record.

22 Q. Okay.

23 A. And there is some indication on that that she
24 was provided Gatorade. So in a sense, yes, that's a record.

25 Q. Well, I'm guess I'm talking about records that

1 would probably be --

2 A. Pertain to this policy?

3 Q. That would be put in the medical file, right.

4 A. Okay. Right.

5 Q. Are there any?

6 A. No.

7 Q. Are there -- is there any kind of medical
8 documentation or record on the reasons for which Madison was
9 put on medical observation?

10 A. Uhm.

11 Q. Because I haven't seen any.

12 A. I don't know.

13 Q. Have you had the opportunity to look at the
14 file that Nurse Clyde kept on Madison Jensen?

15 A. No.

16 Q. Are you aware of whether or not there are any
17 records that document the two visits that Nurse Clyde had
18 with Madison Jensen on Monday and Tuesday at the medical
19 office?

20 A. I don't know.

21 Q. Do you know if there are any records kept by
22 the jail that pertain to how Madison's medications were
23 either approved or disapproved?

24 A. I haven't reviewed any documents pertaining to
25 that.

1 Q. Do you believe that all of the instances I've
2 just asked you about would constitute the kinds of things for
3 which documentation should be maintained?

4 A. Yes.

5 Q. Consistent with jail policy at the time.
6 Correct?

7 A. It wasn't at the time.

8 Q. Well, this healthcare record policy that we
9 looked at in Exhibit 31 was the policy in place in 2016.

10 A. Right.

11 Q. Okay.

12 A. But again, you're asking me to speculate on
13 what medical felt like is needed in those files. That's up
14 to their discretion, not mine.

15 Q. Well, okay. Are you saying, then, that in
16 2016, the medical providers, including Nurse Clyde, were
17 given full discretion to determine what documentation they
18 maintained in their inmate files?

19 A. Yes.

20 Q. Are you aware of any records kept by the jail
21 that document instances where Madison didn't eat a meal?

22 A. No.

23 Q. What about instances when vomit was found in
24 her cell?

25 A. No.

1 Q. What about when her bedding was changed due to
2 being soiled?

3 A. There may have been some inmate notes in the
4 computer. Right offhand, I can't remember.

5 Q. Okay.

6 Let me have you look at Exhibit No. 25. Now,
7 these are the County's responses to discovery requests that I
8 submitted in this case. Are you the County representative
9 that reviewed and approved these responses?

10 A. Yes.

11 Q. Let me have you turn to the County's response
12 to Interrogatory No. 3, which is found on Page 6.

13 A. Okay.

14 Q. Okay. In the second paragraph there, the
15 response reads like this: "Jana Clyde saw Madison multiple
16 times each day."

17 Do you agree or disagree with that statement?

18 A. I disagree.

19 Q. Now look at response to Interrogatory No. 5.
20 In that response, the County says that Madison looked like a
21 typical heroin addict.

22 Do you agree with that statement?

23 A. That was the information that I had gotten.

24 Q. Did you receive that information from officers
25 who were working at the jail at the time?

1 A. Yes.

2 Q. Did you receive that information from Nurse
3 Clyde as well?

4 A. I don't remember having any discussion with
5 Nurse Clyde about how she looked.

6 Q. Okay. Look at your response to Interrogatory
7 No. 313. Here, it says, "Duchesne County does not believe
8 that it deviated from any policies, procedures or practices,
9 observations, rules, or preferences regarding Madison's
10 incarceration."

11 After hearing all of the evidence that's come
12 in so far, do you agree with that statement?

13 A. That we deviated?

14 Q. Do you think that Duchesne County followed
15 every single one of its policies and procedures respecting to
16 its handling and treatment of Madison?

17 A. Yes.

18 Q. Let me have you look at Exhibit 38. These are
19 Logan Clark's responses to discovery requests in this case.

20 A. Okay.

21 Q. Let me have you look at his response to
22 Interrogatory No. 9. There are no page numbers,
23 unfortunately, in here.

24 A. Okay. I think I'm there.

25 Q. Okay. Now, just turn one more page. In the

1 second full paragraph on that page, Logan Clark says,
2 "Madison was not on the list of inmates who had submitted a
3 medical request to be seen that day, and defendant was not
4 provided a medical file for Madison." You see that?

5 A. Yes.

6 Q. If that statement is true, was jail policy
7 violated?

8 A. I don't know.

9 Q. Well, then let's break it down. We know that
10 Madison filled out a medical request form. We've seen that
11 today. Right?

12 A. Yes.

13 Q. You have Logan Clark saying that he came on
14 Thursday, and her medical request form wasn't in the
15 documents that he received.

16 A. Okay.

17 Q. Would that be a violation of jail policy?

18 A. I -- I don't know where it was kept. I don't
19 know the documents that he received, I don't know what he
20 received and -- or where that particular document was. So I
21 guess I couldn't --

22 Q. Well, I don't know either except that he's
23 saying here that he didn't get it.

24 A. Okay.

25 Q. And my question is very simple. Is the fact --

1 if true, is the fact that nobody from the jail provided Logan
2 Clark with Madison's handwritten medical request form, was
3 that a violation of policy?

4 A. Yes, it would have been. If that's true.

5 Q. If Liz Richens didn't put a copy of Madison's
6 intake questionnaire and/or mental health questionnaire in
7 the medical box when Madison was booked in, would that be a
8 violation of policy?

9 A. Yes.

10 Q. If Nurse Clyde received and read Madison's
11 medical request form indicating that she was vomiting and
12 diarrhea for four straight days and couldn't keep anything
13 down and didn't pick up the phone or otherwise contact
14 Dr. Tubbs and Logan Clark immediately, would that be a
15 violation of jail policy?

16 MR. HOMER: Objection. Foundation.

17 MR. HANCEY: You can answer.

18 MR. MYLAR: Join.

19 MR. HANCEY: You can answer.

20 THE WITNESS: I don't know.

21 BY MR. HANCEY:

22 Q. Why not?

23 A. Because I don't -- I don't know what the
24 medical...

25 Q. Well, Sheriff, I'm not going to let you get off

1 the hook with saying you don't know. You know, you're -- the
2 buck stops with you.

3 A. It does.

4 Q. And so I need an answer to the question. Was
5 there a policy -- let me finish. Was there any kind of a
6 policy that would have been implicated in Nurse Clyde
7 receiving a medical request form with that very specific
8 information in it and then not contacting the doctors about
9 it?

10 MR. HOMER: Before you answer, objection,
11 foundation.

12 MR. MYLAR: Join.

13 MR. HANCEY: You can answer, please.

14 THE WITNESS: As far as I know, there wasn't a
15 policy in place specifically addressing that particular
16 issue. So I can't say that she violated or not.

17 MR. HANCEY: Okay.

18 BY MR. HANCEY:

19 Q. Okay. Same exhibit, Exhibit 38. Near the end
20 of that document, there's a section called Requests for
21 Admission. Let me have you find that page, if you would.

22 MR. HOMER: It's a new pleading.

23 MR. HANCEY: Sorry there's not page numbers.

24 Okay. So that's the right page.

25 *

1 BY MR. HANCEY:

2 Q. In Request for Admission No. 1, I ask Logan
3 Clark to admit that he knew, before the day that Madison
4 passed away, that Madison may have been going through heroin
5 withdrawals. And he denied that statement. Do you see that?

6 A. Yes.

7 Q. If true that Logan Clark was not advised that
8 Madison may have been going through heroin withdrawals until
9 after she was already dead, would that have been a violation
10 of jail policy?

11 MR. HOMER: Objection. Foundation.

12 MR. MYLAR: Join.

13 MR. HANCEY: You can answer.

14 THE WITNESS: No.

15 BY MR. HANCEY:

16 Q. Is that because there was not a heroin
17 withdrawal policy in place at the time?

18 A. Yes.

19 Q. In Request for Admission No. 3, I asked Logan
20 to admit that he knew before Madison died, before the day
21 that she died, that Madison was not eating or keeping down
22 fluids. And he denied that statement.

23 If that information was, in fact, not
24 communicated to Logan Clark before Madison died, would that
25 be a violation of jail policy?

1 MR. HOMER: Objection. Foundation.

2 MR. MYLAR: Join.

3 MR. HANCEY: You can answer.

4 THE WITNESS: It would be a violation of our
5 practice, yes.

6 BY MR. HANCEY:

7 Q. It would have been?

8 A. Yes.

9 Q. Okay. In what way, sir?

10 A. If she was -- if she was not keeping food down
11 and it was putting her -- she was to the point where it was a
12 serious medical issue, you're asking me to speculate again,
13 then he should have been informed.

14 Q. Look at Request for Admission No. 11.

15 A. Okay.

16 Q. Logan Clark's response to that request goes as
17 follows: "Admit that defendant," meaning Logan Clark, "has
18 recommended and/or advised jail staff, including Jana Clyde,
19 to contact Logan Clark and inform him of an inmate
20 experiencing any concerning symptoms which may include
21 vomiting, diarrhea or dehydration regardless of how long the
22 symptoms have been present."

23 A. Okay.

24 Q. My first question is, do you know whether or
25 not that's true?

1 A. That's true now.

2 Q. Do you know if that was true as of November
3 2016?

4 A. It wasn't.

5 Q. Okay. So just to be clear, you're not saying
6 you don't know. You're saying that prior to Madison's death,
7 Logan Clark did not provide any such advice or counsel to
8 jail staff. Is that right?

9 A. That addresses that specific situation?

10 Q. Yes.

11 A. I don't know whether he did or not.

12 Q. You don't know?

13 A. No. I know that there was instruction given by
14 him periodically that I didn't attend. So I don't know
15 whether he did or not.

16 Q. Was it a -- no, go ahead, sir. I don't want --

17 A. There's a lot in that. You're saying that
18 concerning an inmate vomiting, diarrhea or dehydration
19 regardless of how long the symptoms have been present. There
20 wasn't a policy in place prior to it, to Madison dying. Now,
21 whether he gives some instruction, If you see this or you see
22 that, with our jail staff or our nurse, I don't know.

23 Q. Now, you acknowledge -- I think you already
24 have acknowledged, that you and the other police officers at
25 the jail are not experts in the medical field. Correct?

1 A. Correct.

2 Q. That's, in fact, the reason why you hire
3 somebody like Nurse Clyde and enter into a contract with
4 somebody like Dr. Tubbs. Right?

5 A. Yes.

6 Q. They're the experts, and you, in -- to a great
7 extent, rely on their medical expertise to address medical
8 issues the inmates are having. Right?

9 A. Yes.

10 Q. Was it a policy of the jail in 2016 that jail
11 employees and staff follow the advice and recommendations
12 given by medical personnel?

13 A. Yes.

14 Q. So following that line of logic, if Logan Clark
15 or Dr. Tubbs, for instance, advised jail staff in 2016, If
16 you see an inmate vomit, I want a phone call, then you
17 would -- then the policy would have been for that jail staff
18 member or employee to contact the doctor if, in fact, they
19 saw something like that?

20 A. Yes.

21 Q. If I might ask, sir, how did you learn about
22 Madison's death?

23 A. I received a phone call.

24 MS. ABKE: Can you speak up? Sorry.

25 THE WITNESS: I received a phone call.

1 MS. ABKE: Thank you.

2 BY MR. HANCEY:

3 Q. From who?

4 A. I don't remember exactly. I think it was my
5 chief deputy, but I -- it could have been another
6 administrative staff.

7 Q. At any time between Madison's passing and
8 today, have you had occasion to talk with Jana Clyde about
9 the incident?

10 A. No.

11 Q. You never asked for her explanation on what
12 happened?

13 A. No. And let me explain why, if I may.

14 Q. Sure.

15 A. One is if there was -- I requested an
16 investigation be conducted on that.

17 Q. By Uintah County. Right?

18 A. By an outside agency. We have a protocol in
19 place to address those type of incidences; that we would have
20 an outside agency do that investigation. It would be
21 inappropriate for me to drag Mrs. Clyde into my office and
22 start quizzing her what was done or how she treated this
23 individual or that individual while that investigation was
24 being conducted.

25 Uintah County conducted their investigation.

1 When the AG started to conduct an investigation, then, again,
2 it would be inappropriate for me to drag her in and question
3 her while an investigation was being conducted. Then she got
4 appointed counsel, and I wouldn't dare speak to your client
5 without your permission in being able to do that. And so I
6 would give that same consideration to Jana. And I haven't
7 spoken to her specifically about this case because of that
8 and the pending litigation on it.

9 **Q. Have you had any conversations with -- about**
10 **Madison and her passing and the circumstances leading up to**
11 **that with any other member of the jail staff?**

12 MR. HOMER: Outside the presence of counsel.
13 Right?

14 MR. HANCEY: Of course.

15 THE WITNESS: No.

16 MR. HANCEY: Okay. Let's go off the record.

17 (Recess taken from 11:47 a.m. to 11:58 a.m.)

18 (Whereupon, Mr. Steve Loos was absent from the
19 deposition proceedings.)

20 MR. HANCEY: I don't have any other questions
21 at this time, Sheriff, thank you.

22 MR. MYLAR: I just have a couple of question.

23 *

24 *

25 *

E X A M I N A T I O N

BY MR. MYLAR:

Q. Prior to Madison's death in 2016, had you ever known of a person in the jail dying because of a heroin withdrawal?

A. No.

Q. Had you ever heard of anyone having serious medical consequences after going through a heroin withdrawal in the jail?

A. No.

Q. Had you heard of anybody having died from dehydration in the jail prior to Madison's death?

A. No.

Q. Had you ever heard of anyone having serious medical conditions due to dehydration in the jail prior to her death?

A. No.

Q. Is the fact that, the basic fact -- and again, prior to Madison's death, the basic fact that somebody was vomiting and/or having diarrhea, like flu-like symptoms, would that be necessarily a serious medical condition?

A. No.

Q. And if you look just quickly on -- well, you don't even necessarily need to look at it. But the form you

1 looked at earlier, Exhibit 5, it actually says on here that
2 I'm not detoxing. She says that she's --

3 A. Oh, I lost them. I was trying to turn and
4 turned it loose.

5 (Off-the-record discussion)

6 THE WITNESS: Just the medical request?

7 BY MR. MYLAR:

8 Q. Yeah, the medical request form.

9 A. Okay.

10 Q. It was Jana Clyde's testimony that she wanted
11 her to fill this out and actually, in conjunction with Deputy
12 Rider, this was filled out at her request, that they were
13 requesting it -- that Jana Clyde was requesting this medical
14 request so she could see the doctor. And she got this
15 request and immediately -- testified that she put her on the
16 doctor's list to be seen on Thursday. Is that in compliance
17 with policy by Jana Clyde to do that?

18 A. Yes.

19 Q. And it specifically says here that she -- that
20 she's not detoxing. Given that, is this necessarily a
21 serious medical condition?

22 MS. ABKE: Object to foundation.

23 MR. HANCEY: Same objection.

24 MR. MYLAR: You can answer.

25 THE WITNESS: No.

1 BY MR. MYLAR:

2 Q. Especially given the fact that she's on the
3 list to see the doctor on Thursday?

4 MR. HANCEY: Assumes facts.

5 MS. ABKE: Join.

6 THE WITNESS: I'm sorry, you lost me.

7 BY MR. MYLAR:

8 Q. It certainly wouldn't be a serious medical
9 condition given the fact that -- well, strike that.

10 It was appropriate for Jana Clyde to receive
11 this information knowing that she's going to be -- that
12 Madison is going to be seen by the doctor on Thursday?

13 MR. HANCEY: Foundation.

14 MS. ABKE: Are you asking if it's appropriate
15 that it seems -- that she got information?

16 MR. MYLAR: That it was appropriate, her
17 action, in terms of how she treated --

18 MS. ABKE: I don't think that's the question
19 you asked.

20 THE WITNESS: About how she handled the
21 information that she got?

22 MR. MYLAR: Yes.

23 THE WITNESS: Was it appropriate?

24 MR. MYLAR: Yes.

25 THE WITNESS: Yes.

1 MR. MYLAR: I don't have any more questions.

2 (Off-the-record discussion)

3
4 E X A M I N A T I O N

5
6 BY MS. ABKE:

7 Q. Sheriff, before you were the sheriff of
8 Duchesne County, what was your job title with Duchesne
9 County?

10 A. Before I was sheriff?

11 Q. Yes.

12 A. I was chief deputy.

13 Q. How long were you the chief deputy?

14 A. Eight years.

15 Q. So you were the chief deputy at the time Jana
16 was hired?

17 A. Yes.

18 Q. Were you involved in the decision to hire Jana
19 Clyde?

20 A. Yes.

21 Q. As far as did -- like did you interview her?

22 A. I sat on the interview board.

23 Q. Did you provide any training, you personally,
24 to Jana Clyde when she was hired with the County?

25 A. I didn't, no --

1 Q. Who did?

2 A. -- me personally.

3 It would -- it would have been our
4 administrative staff back in the jail at that time, I
5 believe.

6 Q. And who --

7 A. And --

8 Q. Go ahead.

9 A. PA Clark.

10 Q. Who is the administrative staff in the jail?

11 A. At that time?

12 Q. What individuals, I guess, what job titles are
13 the administrative staff? So like sergeants or...

14 A. We have corporals, which is our lowest level of
15 supervision, supervisors. We have sergeants, which is the
16 next level. And then a staff sergeant and then a lieutenant.
17 Your staff sergeant is basically your assistant jail
18 commander. So he would take care of the jail in the absence
19 of the commander.

20 Q. So are corporal, sergeant, staff sergeant and
21 the lieutenant all administrative staff?

22 A. The sergeants and the lieutenants would be
23 considered administrative staff.

24 Q. So the sergeants and the lieutenant were the
25 individuals at the jail who provided Jana job training when

1 she was hired. Correct?

2 A. Yes.

3 Q. Who were those individuals?

4 A. At the time?

5 Q. Yes.

6 A. It would have been Jason Curry, who was the
7 jail commander, Travis -- or excuse me, Hollie Purdy was the
8 staff sergeant. Luke Hackford would have been a sergeant.
9 And Travis Givens would have been a sergeant.

10 Q. Do you know what training Curry, Purdy,
11 Hackford and Givens provided to Jana when she was hired?

12 A. No.

13 Q. You were not present for any of the training?

14 A. I wasn't present during any of that.

15 Q. Do you have any documentation of that training,
16 like as far as materials that she might have been provided
17 about that training? I understand there's records of her
18 receiving training. But do you actually have the materials
19 that were provided to her?

20 A. I don't. As far as the facility have that? I
21 don't know whether they do or not.

22 Q. Is providing printed material part of the
23 training for new employees at the sheriff's office?

24 A. As part of it, yes.

25 Q. What does it consist of? What is the printed

1 material that's given?

2 A. On...

3 Q. Is there a lot?

4 A. It depends on the training.

5 Q. Okay. So for Jana's case, what kind of printed
6 material was she provided?

7 A. I don't know.

8 Q. Okay. The best person to talk to about that is
9 one of the four individuals that you mentioned?

10 A. Yes.

11 Q. Then you said that Logan Clark provided Jana
12 job training. Correct?

13 A. I need -- I need to make a clarification.

14 Q. Sure.

15 A. When Jana was hired, I would have been the
16 chief deputy. So at the time, Jeremy Curry would have been
17 the jail commander. Jason Curry would have been staff
18 sergeant. Hollie Purdy would have been a sergeant. Travis
19 Given would have been a sergeant and so would Luke. I got
20 confused on where we were at. So that was the chain of
21 command then, and that would have been the jail
22 administration at the time. I'm sorry, I --

23 MR. HOMER: I just want to make sure. So it
24 was Jeremy as opposed to Jason? Is that your recollection?

25 THE WITNESS: Yes, that's right. And so he

1 would have been -- Jeremy, Jason, Travis Givens, Hollie Purdy
2 would have been those individuals that would have provided
3 her that training when she was hired.

4 BY MS. ABKE:

5 Q. And not Jason Curry? Or also Jason Curry?

6 A. Also Jason Curry, I'm sorry.

7 Q. Both of the Currys?

8 A. Yes.

9 Q. Okay. Going back to my question, you stated, I
10 think, previously, that Logan Clark, you believe, provided
11 Jana with some job training when she was hired?

12 A. Yes.

13 Q. Do you know what that job training was?

14 A. Specifically, no, I don't.

15 Q. Do you know -- well, how -- Logan Clark is not
16 an employee of Duchesne County. Correct?

17 A. Right.

18 Q. He's a contracted -- he's an independent
19 contractor, essentially. Correct?

20 A. Yes.

21 Q. He works under a delegation of services
22 agreement with Dr. Tubbs; right?

23 A. Yes.

24 Q. So what is the scope of what an independent
25 contractor who is not employed by the sheriff's office, what

1 is the scope of what you would expect him to provide as far
2 as job training to Jana Clyde?

3 A. I would expect him -- it states in the contract
4 that they would provide training. And so I would expect that
5 they would review any forms that we used. I would expect
6 that they would give instruction to our nurse because they
7 would be working -- they would be working directly under him.
8 Not necessarily as a supervisor but as medical staff working
9 in conjunction with him to address any medical issue.

10 So I would address -- I would expect there to
11 be some -- at least some verbal communication between the two
12 of them about the problems that might be going on at the
13 time, we were experiencing in the jail at the time. For
14 instance, if we had somebody in there that had cancer,
15 obviously Jana is not a doctor, and so there would need to be
16 some instruction on how to possibly deal with that particular
17 individual.

18 And so if there were issues like that, I would
19 expect him to give her some instruction, some training on how
20 to deal with that if he wasn't there and...

21 Q. By "training," are you meaning what he would
22 expect Jana to do as far as helping him do his job, like
23 providing medical services to jail staff?

24 A. Yes.

25 Q. Is that what --

1 A. Yes.

2 Q. Is that generally all we're talking about here?
3 I mean, is there something else -- you said Logan is not
4 Jana's supervisor. Right?

5 A. Right.

6 Q. Jana doesn't report to Logan or Dr. Tubbs, does
7 she?

8 A. No.

9 Q. So there's no way for Logan to ensure that Jana
10 is complying with, for example, jail policies. Correct?

11 A. I wouldn't say that there's no way of him being
12 able to see if she's complying. Because obviously as he
13 looks at some of the documentation and stuff, he could see
14 whether she's following those directives. So to say that,
15 probably wouldn't be accurate.

16 Q. What documentation are you referring to that he
17 would look at?

18 A. Say, for instance, if he had instructed her to
19 fill out a specific form a certain way, and then he was gone
20 the rest of the week, when he came back, if those forms
21 weren't filled out completely or accurately like she had been
22 instructed by him to do, obviously he could tell at that
23 point that she wasn't complying with the policy he had given
24 her.

25 Q. So Logan or Dr. Tubbs could see whether Jana

1 was complying with instructions that they had provided to
2 her. Correct?

3 A. Right.

4 Q. Do you know if Logan Clark or Dr. Tubbs has
5 received any training from the Duchesne County Sheriff's
6 Office regarding your department's policies and procedures?

7 A. I believe they have. I...

8 Q. What makes -- where do you get that
9 understanding from?

10 A. Just because of some of the discussion that I
11 have with my supervisory staff. I meet with them every
12 Monday morning.

13 Q. Who?

14 A. My administrative staff. My jail commander, my
15 staff sergeant, my patrol lieutenant, my detective
16 lieutenant, my office manager.

17 Q. Not Logan or Dr. Tubbs?

18 A. Not Logan or Dr. Tubbs. In some of those
19 discussions, I recall, you know, them mentioning that, you
20 know, we've told Dr. Tubbs about -- or Logan Clark about this
21 specific thing or that specific thing so that we can help
22 the -- a particular situation or comply with a policy here
23 and there. To be --

24 Q. Do Logan --

25 A. -- specific about that, which ones or what they

1 told them, I don't know. Just I know that we've had
2 conversations about that before.

3 Q. So there may have been some ad hoc discussion
4 with Logan Clark or Dr. Tubbs about specific policies and
5 procedures. Correct?

6 A. Right.

7 Q. But when you first entered into the contract
8 with Dr. Tubbs and, by delegation, Logan Clark, did they go
9 through field training?

10 A. I don't know. That was -- they entered into
11 that contract before I was sheriff, and that wasn't part of
12 my responsibility at the time as the chief deputy.

13 Q. Do you have any reason to believe that they did
14 go through field training, seeing as they're not employees of
15 the County?

16 A. I don't have any idea either way.

17 Q. Do you have any knowledge of Dr. Tubbs or Logan
18 Clark being trained on the full policies and procedures and
19 signing some sort of document that says, We are trained on
20 the policies and procedures of the jail?

21 A. No.

22 Q. So as far as compliance with jail policies and
23 procedures and whether Jana Clyde or any other corrections
24 officer was complying with those policies and procedures, I
25 take it Logan Clark and Dr. Tubbs would not have any way of

1 knowing what those policies were and ensuring compliance.

2 Correct?

3 A. No.

4 Q. In November and December of 2016, could
5 corrections officers, did they have the training to take
6 vitals of an inmate?

7 A. No.

8 Q. The only person who was regularly --

9 A. Let me rephrase that.

10 Q. Sure.

11 A. There may have been some of my staff that were
12 EMTs that could have been trained to take vitals.

13 Q. Are you aware of any corrections officers ever
14 taking vitals of an inmate while in -- they were
15 incarcerated?

16 A. Prior to that -- prior to Madison --

17 Q. Around the time, 2016.

18 A. No.

19 Q. Was the responsibilities for taking vital signs
20 of an inmate, did that rest with Jana Clyde?

21 A. Yes, and our medical provider.

22 Q. Sure. But they're not there all the time.

23 Right?

24 A. Right.

25 Q. I think you said previously that corrections

1 officers and Ms. Clyde had the discretion as to when they
2 would call Logan Clark or Dr. Tubbs, if need be, regarding an
3 inmate's medical condition. Correct?

4 A. Yes.

5 Q. So they could decide when they felt it was
6 necessary to make that call?

7 A. If it was an emergency situation, they were
8 required to.

9 Q. That was the only time that they didn't have
10 discretion was in an emergency situation?

11 A. Right.

12 Q. What constitutes an emergency situation in your
13 mind?

14 A. In my mind?

15 Q. Yes.

16 A. Somebody that is in immediate distress where
17 they -- their life would be in jeopardy.

18 Q. Corrections officers don't have medical
19 training beyond basic first aid as a general rule. Correct?

20 A. Correct.

21 Q. And Jana Clyde, I understand she's an LPN, but
22 she's not a registered nurse. Correct?

23 A. Correct.

24 Q. Her medical training is limited. I think you
25 understand that?

1 A. Yes.

2 Q. How would a corrections officer or Ms. Clyde
3 make that determination as to what constitutes an emergency
4 life-threatening situation for an inmate?

5 A. Just like any other person outside of the
6 correctional setting would. If it becomes apparent to me,
7 obvious to me as a parent that my child is in immediate peril
8 of having a medical issue that needed immediate attention,
9 say, fall and hit their head and was obviously bleeding to
10 death, I would think that that would be a serious medical
11 emergency, and I would take them to the doctor. If they fell
12 and broke a bone, obviously that's an immediate medical
13 emergency, and I would take them to the doctor. I don't see
14 that Nurse Clyde or our correctional staff at that point
15 would be any different than a layperson outside of a
16 correctional facility.

17 Q. So you're expecting your corrections officers
18 and Ms. Clyde to use their common sense in making that
19 decision. Correct?

20 A. Yes.

21 Q. And do what an ordinary person would do outside
22 of the...

23 A. The correctional setting.

24 Q. The correctional setting?

25 A. Yes.

1 Q. I think you said when Mr. Mylar was asking a
2 question that vomiting and diarrhea, sort of in a vacuum as
3 far as symptoms, may not be a serious medical condition.
4 Correct?

5 A. Correct.

6 Q. Would you defer to a trained medical provider
7 or doctor as to when those symptoms would constitute a
8 serious medical problem?

9 A. Yes.

10 Q. Have you reviewed the video observation of
11 Madison in the court holding cell?

12 A. Yes.

13 Q. So you've had an opportunity to look at that.
14 Right?

15 A. Yes.

16 Q. Would you consider her situation and her
17 symptoms that she was exhibiting as shown on that video to be
18 a serious medical problem?

19 A. No.

20 Q. And why is that?

21 A. I've experienced those same symptoms, and I've
22 had children that experienced them same symptoms, and I've
23 seen it in the jail experiencing those same symptoms. And
24 it's never been a medical emergency, a serious medical
25 emergency that needed to be addressed.

1 Q. I know that there's a -- there's a camera that
2 the controllers can look at to see a person who is in a court
3 holding cell. Correct?

4 A. Yes.

5 Q. Is their video feed of the court holding
6 individuals also on a motion sensor like the video that we
7 received in discovery?

8 A. Yes.

9 Q. So they can't see anything if the person is not
10 moving?

11 A. Yes. It's only activated if there's motion.

12 Q. You talked about standard operating procedures
13 in the jail?

14 A. Yes.

15 Q. Are those -- do those have to be formally
16 adopted?

17 A. Standard operating procedures? Are we talking
18 about the operating procedures as far as the standards and
19 the procedures?

20 Q. You used the term standard operating
21 procedures. So -- and then I think you identified the opiate
22 withdrawal policy as a standard operating procedure.
23 Correct?

24 A. Yes.

25 Q. So tell me how something becomes a standard

1 **operating procedure.**

2 A. It's drafted -- in this incident, it would have
3 been drafted by our medical provider. It would be presented
4 to our administrative staff in the jail, and then I would
5 review it. Obviously, if there would be -- I'm not a medical
6 professional, so rarely would I interject my thoughts into a
7 procedure that the medical said that we should have. I would
8 look at it and okay it, and that would be implemented at that
9 point.

10 **Q. Are all --**

11 A. And then it would be sent out to our staff,
12 been addressed in an e-mail. It might be addressed with
13 handing them a document, put on the computer so they could
14 review it. Or we would address it in all of those ways and
15 then address it in a staff meeting.

16 **Q. Are all standard operating procedures in**
17 **written format?**

18 A. No.

19 **Q. Some of them are just orally communicated or**
20 **e-mail communicated?**

21 A. Yes.

22 **Q. Is there one particular place on, like, the**
23 **computers where corrections officers or jail staff can go to**
24 **look at all the standard operating procedures?**

25 A. There is a place on there that they can go,

1 yes. It's in the file that I told you about where the jail
2 standards and policies are.

3 Q. What's the name of the file?

4 A. It's just jail policies.

5 Q. So it's in the same folder as the --

6 A. Yes.

7 Q. This is the official written policy that we've
8 looked at a section of?

9 A. Yes.

10 Q. Is there a reason why standard operating
11 procedures are not part of the policies and procedures
12 manual?

13 A. You mean implemented into it?

14 Q. Adopted by it or incorporated within it?

15 A. Part of that is, is every jail is different.
16 And we -- and we go by the standards that were adopted by the
17 Sheriff's Association, those standards. And so as they come
18 and inspect those, those are the ones that we specifically
19 focus on. And so we want them separate from the standard
20 operating procedure.

21 And again, some of those are verbal. And so I
22 don't dict -- we don't dictate a verbal procedure or an
23 operating procedure and then have them transcribed. We just
24 don't do that.

25 Q. How does a new employee find out about all the

1 standard operating procedures if some of them are given via
2 e-mail and things like that? How would they know what
3 applies to their job duties?

4 A. That would be part of their field training,
5 their field training officer. They would spend time with
6 their field training officer who would -- as they go down
7 through the FTO training protocol, as they would get to a
8 specific issue, any of those verbal communications that would
9 have been given, they would address with those individuals at
10 that time.

11 If they had any questions about that, they
12 would monitor whether they were -- they were getting their --
13 getting their -- the things that they needed to be trained
14 on. If they were lacking in an area, then they would address
15 that verbally with them, and they would discuss a particular
16 standard operating procedure that might have been
17 communicated.

18 Again, most of the standard operating
19 procedures that are given verbally aren't something that is
20 of a serious nature. Or they would be adopted and put right
21 into the standards and the policy.

22 Q. Or at least it's not something that there's
23 been some sort of legal precedent that needs to be modified
24 by the Sheriff's Association or something like that?

25 A. Right. Or we've had an issue with -- like I

1 say, policies and procedures are an ever -- they're
2 ever-changing, and the reason that they're ever-changing is
3 we have different issues or problems or there's case law
4 that's established. We have got to go in there and address
5 those. If we've never had a problem with them before, then
6 it might just stay as a verbal communication.

7 But if something is apparent that we're having
8 an issue there, there's new case law that comes down, our
9 officers obviously has to take that into consideration and
10 comply with that. And so it's written out, it's in the
11 policy form, it's adopted, and it's put into policies and
12 procedures. And that's why we have the inspection and the
13 standards and that policy every year. Because it's
14 ever-changing.

15 And we get new officers, and we want to be able
16 to go over that with them. If they didn't -- if they wasn't
17 present at a particular staff meeting where a verbal
18 directive or a verbal SOP was administered, it's the
19 supervisor's responsibility to get with that officer and
20 communicate that to them and make sure that they understand.

21 Q. Understood.

22 In order to adopt an operating procedure, who
23 initiates that protocol? So, for example, an issue comes up
24 and you decide that you need to have a standard operating
25 procedure for something. Who says, We need to get something

1 in place or we need to notify everyone of what -- this is the
2 way we're going to do things going forward?

3 A. It could come from a civilian or right with our
4 line staff. It could --

5 Q. Would they bring that to your attention?

6 A. -- it could start at the lowest level. If they
7 encountered a situation that they thought isn't covered in
8 our policy, that would be a good practice, they could take
9 that to their immediate supervisor and say, Could I make a
10 suggestion? I see that we are lacking in this area. You
11 know, I come from this background, and we might be lacking in
12 this area. Is that something that we should consider maybe
13 looking at as far as policy? Then it would go up the chain.

14 Q. So the suggestion to have an SOP could be
15 raised by anyone down to, you know, booking clerks. Correct?

16 A. Yes.

17 Q. But as far as an actual implementation of
18 protocol or procedure, that has to go up to the chain of
19 command; it has to eventually be approved by you?

20 A. Yes. It would come -- it might be drafted by
21 one of my command staff, then it would come to me. I would
22 look at it. And, generally speaking, I would have our
23 attorney group, one of our attorneys in our County office,
24 review that to make sure that there wasn't any legal problems
25 with it. And if they felt like that it was sufficient, then

1 I would adopt it.

2 Q. So again, you're the person who approves any
3 operating procedures as well as any official written
4 policies?

5 A. Yes.

6 Q. You're the one that has to approve each of
7 those, give final approval?

8 A. Yes.

9 MS. ABKE: I'm just about done.

10 BY MS. ABKE:

11 Q. So you mentioned -- you listed several ways
12 that corrections officers can learn that an inmate is
13 experiencing a medical problem or medical symptoms. You said
14 things like they can be told by the inmate, they can receive
15 a medical request form, they can observe it personally when
16 they're doing their job, things like that. Correct?

17 A. Yes.

18 Q. Is it fair to say that the only way that the
19 contracted medical providers would become aware of an inmate
20 having medical symptoms, when they're not present at the jail
21 the one day a week, would be that they have to be notified by
22 jail staff? Correct?

23 A. Yes.

24 Q. And an inmate --

25 A. Or review a document that would be there.

1 Q. Sure. But they would still need to receive
2 that documentation from jail staff. Right?

3 A. Yes.

4 Q. And one way or the other, whether it's written
5 or verbally, they need to be advised somehow that there's an
6 inmate having medical symptoms. Right?

7 A. Yes.

8 Q. There's no way that they can somehow oversee
9 or -- they have no way of knowing what's going on with the
10 inmates inside the jail when they're not present unless
11 they're told something, it's communicated to them. Correct?

12 A. Yes.

13 Q. There's no way for an inmate -- at least at the
14 time in 2016, there was no way for an inmate to get medical
15 care if the providers, contracted providers, were not
16 notified of a need to provide that medical care. Correct?

17 A. Yes.

18 MS. ABKE: That's all the questions I have.

19 MR. HANCEY: Just a couple more.

20

21 F U R T H E R E X A M I N A T I O N

22

23 BY MR. HANCEY:

24 Q. Why is Jason Curry no longer a lieutenant at
25 the jail?

1 A. I replaced him with Jeremy Curry.

2 Q. When did that take place?

3 A. About -- it was around the first of this year.

4 Q. Was that for disciplinary reasons?

5 A. No.

6 Q. Has anybody at the jail been disciplined for
7 anything they did concerning the circumstances surrounding
8 Madison's death?

9 A. No.

10 Q. Prior to Madison passing away, did you know
11 that vomiting and diarrhea over an extended period of time
12 could lead to dehydration?

13 A. Yes.

14 Q. Did the -- do you believe that the correctional
15 officers at your facility also had that knowledge?

16 A. I don't know. Personally, I do. But I don't
17 know what experience they've had to -- I know that because my
18 son years ago, when he was a child, experienced some vomiting
19 and dehydration; he was two. And they told me that, you
20 know, being that young and that small and being an infant,
21 that that is a concern.

22 So I don't know what they had. But I know that
23 because of my experience, so -- I don't know what they know.

24 Q. Do you know if the jail employees and staff in
25 2016 had received any training from anybody informing them

1 about risks of dehydration coming from vomiting or diarrhea?

2 A. I don't know that they did.

3 MR. HANCEY: I don't have any other questions.

4 Thank you.

5 MR. MYLAR: I don't have any.

6 MS. ABKE: I'm all done.

7 MR. HOMER: Thank you.

8 (Deposition concluded at 12:31 p.m.)

9 * * *

C E R T I F I C A T E

STATE OF _____)
 : ss.
 COUNTY OF _____)

I HEREBY CERTIFY that I have read the foregoing testimony consisting of 114 pages, numbered from 4 through 117, inclusive, and the same is a true and correct transcription of said testimony with the exception of the corrections I have listed below in ink, giving my reasons therefor.

1. Page ____ Line ____ Correction _____
Reason _____
2. Page ____ Line ____ Correction _____
Reason _____
3. Page ____ Line ____ Correction _____
Reason _____
4. Page ____ Line ____ Correction _____
Reason _____
5. Page ____ Line ____ Correction _____
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6. Page ____ Line ____ Correction _____
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Reason _____

 DAVID L. BOREN

SUBSCRIBED AND SWORN to at _____,
 this _____ day of _____, 20____.

 NOTARY PUBLIC

C E R T I F I C A T E

STATE OF UTAH)
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COUNTY OF SALT LAKE)

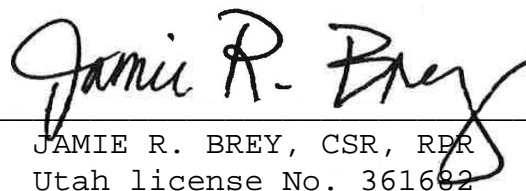
THIS IS TO CERTIFY that the deposition of
DAVID L. BOREN, the witness in the foregoing deposition
named, was taken before me, JAMIE R. BREY, a Certified
Shorthand Reporter and Registered Professional Reporter in
and for the State of Utah, residing at Salt Lake City, Utah.

That the said witness was by me, before
examination, duly sworn to testify the truth, the whole truth
and nothing but the truth in said cause.

That the testimony of said witness was reported
by me in Stenotype and thereafter caused by me to be
transcribed into typewriting, and that a full, true and
correct transcription of said testimony so taken and
transcribed is set forth in the foregoing pages numbered from
4 through 117, inclusive, and said witness deposed and said
as in the foregoing annexed deposition.

I further certify that I am not of kin or
otherwise associated with any of the parties to said cause of
action, and that I am not interested in the events thereof.

WITNESS MY HAND at Salt Lake City, Utah, this
9th day of July, 2018.


JAMIE R. BREY, CSR, RPR
Utah license No. 361682

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